

REPORT ON THE LEGISLATIVE AND  
OVERSIGHT ACTIVITIES

OF THE

**COMMITTEE ON WAYS AND MEANS**

DURING THE

112<sup>TH</sup> CONGRESS

*As of May 31, 2012*



One Hundred Twelfth Congress  
COMMITTEE ON WAYS AND MEANS

DAVE CAMP, Michigan, *Chairman*

WALLY HERGER, California  
SAM JOHNSON, Texas  
KEVIN BRADY, Texas  
PAUL RYAN, Wisconsin  
DEVIN NUNES, California  
PAT TIBERI, Ohio  
GEOFF DAVIS, Kentucky  
DAVE REICHERT, Washington  
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JOSEPH CROWLEY, New York

**LETTER OF TRANSMITTAL**

U.S. HOUSE OF REPRESENTATIVES,  
COMMITTEE ON WAYS AND MEANS,  
*Washington, DC, June XX, 2012.*

Hon. KAREN HAAS,  
*Office of the Clerk,*  
*House of Representatives, Washington, DC.*

DEAR MS. HAAS: I am herewith transmitting, pursuant to House Rule XI, clause 1(d), the report of the Committee on Ways and Means on its legislative and oversight activities during the 112<sup>th</sup> Congress (January 5, 2011-May 31, 2012).

Sincerely,

DAVE CAMP,  
*Chairman*

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## FOREWORD

Clause 1(d) of Rule XI of the Rules of the House, regarding the Rules of procedure for committees, contains a requirement that each committee prepare a report summarizing its activities. The 112<sup>th</sup> Congress amended the Rules of the House increasing the frequency of reports from annually to semiannually. The 104<sup>th</sup> Congress added subsections on legislative and oversight activities, including a summary comparison of oversight plans and eventual recommendations and actions. The full text of the amended Rule follows:

*(d)(1) Not later than the 30<sup>th</sup> day after June 1 and December 1, a committee shall submit to the House a semiannual report on the activities of that committee.*

*(2) Such report shall include—*

*(A) separate sections summarizing the legislative and oversight activities of that committee under this Rule and Rule X during the applicable period;*

*(B) in the case of the first such report, a summary of the oversight plans submitted by the committee under clause 2(d) of Rule X;*

*(C) a summary of the actions taken and recommendations made with respect to the oversight plans specified in subdivision (B);*

*(D) a summary of any additional oversight activities undertaken by that committee and any recommendations made or actions taken thereon; and*

*(E) a delineation of any hearings held pursuant to clauses 2(n), (o), or (p) of this Rule.*

*(3) After an adjournment sine die of a regular session of a Congress, or after December 15, whichever occurs first, the chair of a committee may file the second or fourth semiannual report described in subparagraph (1) with the Clerk at any time and without approval of the committee, provided that—*

*(A) a copy of the report has been available to each member of the committee for at least seven calendar days; and*

*(B) the report includes any supplemental, minority, or additional views submitted by a member of the committee.*

The jurisdiction of the Committee on Ways and Means during the 112<sup>th</sup> Congress is provided in Rule X, clause 1(t), as follows:

*(t) Committee on Ways and Means.*

*(1) Customs revenue, collection districts, and ports of entry and delivery.*

*(2) Reciprocal trade agreements.*

*(3) Revenue measures generally.*

*(4) Revenue measures relating to insular possessions.*

*(5) Bonded debt of the United States, subject to the last sentence of clause 4(f).*

*(6) Deposit of public monies.*

*(7) Transportation of dutiable goods.*

*(8) Tax exempt foundations and charitable trusts.*

*(9) National social security (except health care and facilities programs that are supported from general revenues as opposed to payroll deductions and except work incentive programs).*

The general oversight responsibilities of the committee are set forth in clause 2 of Rule X. The 104<sup>th</sup> Congress also added the requirement in clause 2 of Rule X that each standing committee submit its oversight plans for each Congress. The text of the Rule, in pertinent part, follows:

*2. (a) The various standing committees shall have general oversight responsibilities as provided in paragraph (b) in order to assist the House in—*

*(1) its analysis, appraisal, and evaluation of—*

*(A) the application, administration, execution, and effectiveness of Federal laws; and*

*(B) conditions and circumstances that may indicate the necessity or desirability of enacting new or additional legislation; and*

*(2) its formulation, consideration, and enactment of changes in Federal laws, and of such additional legislation as may be necessary or appropriate.*

*(b)(1) In order to determine whether laws and programs addressing subjects within the jurisdiction of a committee are being implemented and carried out in accordance with the intent of Congress and whether they should be continued, curtailed, or eliminated, each standing committee (other than the Committee on Appropriations) shall review and study on a continuing basis—*

*(A) the application, administration, execution, and effectiveness of laws and programs addressing subjects within its jurisdiction; (B) the organization and operation of Federal agencies and entities having responsibilities for the administration and execution of laws and programs addressing subjects within its jurisdiction;*

*(C) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation addressing subjects within its jurisdiction (whether or not a bill or resolution has been introduced with respect thereto); and*

*(D) future research and forecasting on subjects within its jurisdiction.*

*(2) Each committee to which subparagraph (1) applies having more than 20 members shall establish an oversight subcommittee, or require its subcommittees to conduct oversight in their respective jurisdictions, to assist in carrying out its responsibilities under this clause. The establishment of an oversight subcommittee does not limit the responsibility of a subcommittee with legislative jurisdiction in carrying out its oversight responsibilities.*

*(c) Each standing committee shall review and study on a continuing basis the impact or probable impact of tax policies affecting subjects within its jurisdiction as described in clauses 1 and 3.*

*(d)(1) Not later than February 15 of the first session of a Congress, each standing committee shall, in a meeting that is open to the public and with a quorum present, adopt its oversight plan for that Congress. Such plan shall be submitted simultaneously to the Committee on Oversight and Government Reform and to the Committee on*

*House Administration. In developing its plan each committee shall, to the maximum extent feasible—*

*(A) consult with other committees that have jurisdiction over the same or related laws, programs, or agencies within its jurisdiction with the objective of ensuring maximum coordination and cooperation among committees when conducting reviews of such laws, programs, or agencies and include in its plan an explanation of steps that have been or will be taken to ensure such coordination and cooperation;*

*(B) review specific problems with Federal Rules, regulations, statutes, and court decisions that are ambiguous, arbitrary, or nonsensical, or that impose severe financial burdens on individuals;*

*(C) give priority consideration to including in its plan the review of those laws, programs, or agencies operating under permanent budget authority or permanent statutory authority;*

*(D) have a view toward ensuring that all significant laws, programs, or agencies within its jurisdiction are subject to review every 10 years; (E) have a view toward insuring against duplication of Federal programs; and*

*(F) include proposals to cut or eliminate programs, including mandatory spending programs, that are inefficient, duplicative, outdated, or more appropriately administered by State or local governments.*

Pursuant to H. Res. 72, for the first session of the 112<sup>th</sup> Congress, the Committee is required to identify any oversight or legislative activity conducted in support of, or as a result of, its "inventory and review of existing, pending, and proposed regulations, orders, and other administrative actions or procedures by agencies of the Federal government" within its jurisdiction. The full text of the Resolution follows:

*Resolved, That each standing committee designated in section 3 of this resolution shall inventory and review existing, pending, and proposed regulations, orders, and other administrative actions or procedures by agencies of the Federal Government within such committee's jurisdiction. In completing such inventory and review, each committee shall consider the matters described in section 2. Each committee shall conduct such hearings and other oversight activities as it deems necessary in support of the inventory and review, and shall identify in any report filed pursuant to clause 1(d) of Rule XI for the first session of the 112<sup>th</sup> Congress any oversight or legislative activity conducted in support of, or as a result of, such inventory and review.*

**SEC. 2. MATTERS FOR CONSIDERATION.**

*In completing the review and inventory described in the first section of this resolution, each committee shall identify regulations, executive and agency orders, and other administrative actions or procedures that—*

- (1) impede private-sector job creation;*
- (2) discourage innovation and entrepreneurial activity;*
- (3) hurt economic growth and investment;*
- (4) harm the Nation's global competitiveness;*
- (5) limit access to credit and capital;*
- (6) fail to utilize or apply accurate cost-benefit analyses;*

- (7) create additional economic uncertainty;*
- (8) are promulgated in such a way as to limit transparency and the opportunity for public comment, particularly by affected parties;*
- (9) lack specific statutory authorization;*
- (10) undermine labor-management relations;*
- (11) result in large-scale unfunded mandates on employers without due cause;*
- (12) impose undue paperwork and cost burdens on small businesses; or*
- (13) prevent the United States from becoming less dependent on foreign energy sources.*

**SEC. 3. COMMITTEES.**

*The committees referred to in the first section of this resolution are as follows:*

- (1) The Committee on Agriculture.*
- (2) The Committee on Education and the Workforce.*
- (3) The Committee on Energy and Commerce.*
- (4) The Committee on Financial Services.*
- (5) The Committee on the Judiciary.*
- (6) The Committee on Natural Resources.*
- (7) The Committee on Oversight and Government Reform.*
- (8) The Committee on Small Business.*
- (9) The Committee on Transportation and Infrastructure.*
- (10) The Committee on Ways and Means.*

To carry out its work during the 112<sup>th</sup> Congress, the Committee on Ways and Means had six standing Subcommittees, as follows:

Subcommittee on Trade;  
 Subcommittee on Oversight;  
 Subcommittee on Health;  
 Subcommittee on Social Security;  
 Subcommittee on Human Resources; and  
 Subcommittee on Select Revenue Measures.

The membership of the six Subcommittees<sup>1</sup> of the Committee on Ways and Means in the 112<sup>th</sup> Congress is as follows:

**SUBCOMMITTEE ON TRADE**  
 KEVIN BRADY, Texas, *Chairman*

GEOFF DAVIS, Kentucky  
 DAVE REICHERT, Washington  
 WALLY HERGER, California  
 DEVIN NUNES, California  
 VERN BUCHANAN, Florida  
 ADRIAN SMITH, Nebraska  
 AARON SCHOCK, Illinois  
 LYNN JENKINS, Kansas

JIM McDERMOTT, Washington  
 RICHARD E. NEAL, Massachusetts  
 LLOYD DOGGETT, Texas  
 JOSEPH CROWLEY, New York  
 JOHN B. LARSON, Connecticut

SUBCOMMITTEE ON SOCIAL SECURITY  
SAM JOHNSON, Texas, *Chairman*

|                         |                                |
|-------------------------|--------------------------------|
| KEVIN BRADY, Texas      | XAVIER BERRA, California       |
| PAT TIBERI, Ohio        | LLOYD DOGGETT, Texas           |
| AARON SCHOCK, Illinois  | SHELLEY BERKLEY, Nevada        |
| RICK BERG, North Dakota | FORTNEY PETE STARK, California |
| ADRIAN SMITH, Illinois  |                                |
| KENNY MARCHANT, Texas   |                                |

SUBCOMMITTEE ON OVERSIGHT  
CHARLES BOUSTANY, Louisiana, *Chairman*

|                         |                            |
|-------------------------|----------------------------|
| DIANE BLACK, Tennessee  | JOHN LEWIS, Georgia        |
| AARON SCHOCK, Illinois  | XAVIER BECERRA, California |
| LYNN JENKINS, Kansas    | RON KIND, Wisconsin        |
| KENNY MARCHANT, Texas   | JIM McDERMOTT, Washington  |
| TOM REED, New York      |                            |
| ERIK PAULSEN, Minnesota |                            |

SUBCOMMITTEE ON HEALTH  
WALLY HERGER, California, *Chairman*

|                           |                                |
|---------------------------|--------------------------------|
| SAM JOHNSON, Texas        | FORTNEY PETE STARK, California |
| PAUL RYAN, Wisconsin      | MIKE THOMPSON, California      |
| DEVIN NUNES, California   | RON KIND, Wisconsin            |
| DAVE REICHERT, Washington | EARL BLUMENAUER, Oregon        |
| PETER ROSKAM, Illinois    | BILL PASCRELL, JR., New Jersey |
| JIM GERLACH, Pennsylvania |                                |
| TOM PRICE, Georgia        |                                |
| VERN BUCHANAN, Florida    |                                |

SUBCOMMITTEE ON HUMAN RESOURCES  
GEOFF DAVIS, Kentucky, *Chairman*

|                             |                           |
|-----------------------------|---------------------------|
| ERIK PAULSEN, Minnesota     | LLOYD DOGGETT, Texas      |
| RICK BERG, North Dakota     | JIM MCDERMOTT, Washington |
| TOM REED, New York          | JOHN LEWIS, Georgia       |
| TOM PRICE, Georgia          | JOSEPH CROWLEY, New York  |
| DIANE BLACK, Tennessee      |                           |
| CHARLES BOUSTANY, Louisiana |                           |

SUBCOMMITTEE ON SELECT REVENUE MEASURES  
PAT TIBERI, Ohio, *Chairman*

PETER ROSKAM, Illinois  
ERIK PAULSEN, Minnesota  
RICK BERG, North Dakota  
CHARLES BOUSTANY, Louisiana  
KENNY MARCHANT, Texas  
JIM GERLACH, Pennsylvania

RICHARD E. NEAL, Massachusetts  
MIKE THOMPSON, California  
JOHN B. LARSON, Connecticut  
SHELLEY BERKLEY, Nevada

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<sup>1</sup>. Rep. Charles Rangel, NY will serve as an ex officio member sitting on all of the Subcommittees without voting rights in the 112<sup>th</sup> Congress.

The Committee on Ways and Means submits its report on its legislative and oversight activities for the 112<sup>th</sup> Congress pursuant to the above stated provisions of the Rules of the House. Section I of the report describes the Committee's legislative activities, divided into seven sections as follows: Legislative Review of Tax, Trust Fund, and Pension Issues; Legislative Review of Trade Issues; Legislative Review of Health Issues; Legislative Review of Social Security Issues; Legislative Review of Human Resources Issues; and Legislative Review of Multi-Jurisdictional Issues.

Section II of the report describes the Committee's oversight activities. It includes a copy of the Committee's Oversight Agenda, adopted on February 15, 2011, along with a description of actions taken and recommendations made with respect to the oversight plan. The report then discusses additional Committee oversight activities, and any recommendations or actions taken as a result.

Section III details the Committee's activities pursuant to H.Res. 72.

Finally, the report includes four appendices with Committee information. Appendix I is an expanded discussion of the Jurisdiction of the Committee on Ways and Means along with a revised listing and explanation of blue slip resolutions and points of order under House Rule XXI 5(a). Appendix II is a brief Historical Note on the origins of the Committee; Appendix III is a Statistical Review of the Activities of the Committee on Ways and Means; and Appendix IV is a listing of the Chairmen and Membership of the Committee from the 1<sup>st</sup>–112<sup>th</sup> Congresses

REPORT ON THE LEGISLATIVE AND OVERSIGHT ACTIVITIES OF  
THE COMMITTEE ON WAYS AND MEANS DURING THE  
ONE HUNDRED TWELFTH  
CONGRESS

Mr. Camp, from the Committee on Ways and Means,  
submitted the following  
REPORT

**I. Legislative Activity Review**

A. LEGISLATIVE REVIEW OF TAX, TRUST FUND, AND PENSION ISSUES

1. BILLS ENACTED INTO LAW DURING THE 112<sup>TH</sup> CONGRESS  
(JANUARY 5, 2011 TO May 31, 2012)

*a. Surface Transportation Extension Act of 2011 (P.L. 112-5)*

On February 11, 2011, Transportation and Infrastructure Committee Chairman John Mica and four cosponsors – Representative Peter DeFazio, Representative John Duncan, Jr., Representative Richard Hanna, and Representative Nick Rahall, II – introduced H.R. 662, the “Surface Transportation Extension Act of 2011.” On February 28, 2011 and March 1, 2011, Chairman Camp and Chairman Mica exchanged letters acknowledging the jurisdiction of the Ways and Means Committee on the bill’s tax-related provisions. On March 2, 2011, the House passed the bill, as amended, under a rule by a vote of 421–4. On March 3, 2011, the Senate passed the bill without amendment by voice vote. On March 4, 2011, the President signed the bill into law.

H.R. 662 extended through September 30, 2011 the authorization of various surface transportation programs under the jurisdiction of the Transportation and Infrastructure Committee. The tax-related provisions of H.R. 662 extended through September 30, 2011 the Internal Revenue Code’s expenditure authority for the Highway Trust Fund Highway and Mass Transit accounts and the Sport Fish Restoration and Boating Trust Fund.

*b. Airport and Airway Extension Act of 2011 (P.L. 112-7)*

On March 15, 2011, Transportation and Infrastructure Committee Chairman John Mica and four cosponsors – Chairman Camp, Representative Jerry Costello, Representative Thomas Petri, and Representative Nick Rahall, II – introduced H.R. 1079, the “Airport and Airway Extension Act of 2011.” On March 22, 2011 and March 23, 2011, Chairman Camp and Chairman Mica exchanged letters acknowledging the jurisdiction of the Ways and Means Committee on the bill’s tax-related provisions. Those letters noted that the Ways and Means Committee had, on March 16, 2011, ordered favorably reported legislation (H.R. 1034) similar to the tax-related provisions of H.R. 1079. For additional information on H.R. 1034, see section 2j. On March 29, 2011, the House passed H.R. 1079 under suspension of the rules by voice vote. On March 29, 2011, the Senate passed the bill without amendment by unanimous consent. On March 31, 2011, the President signed the bill into law.

H.R. 1079 extended through May 31, 2011 the authorization of various airport and airway programs under the jurisdiction of the Transportation and Infrastructure Committee. The tax-related provisions of H.R. 1079 extended through May 31, 2011 the Internal Revenue Code’s expenditure authority for the Airport and Airway Trust Fund and

the excise taxes that support the Airport and Airway Trust Fund.

*c. Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011 (P.L. 112-9)*

On January 12, 2011, House Administration Committee Chairman Dan Lungren and 245 cosponsors introduced H.R. 4, the “Small Business Paperwork Mandate Elimination Act of 2011.” On February 17, 2011, the Committee marked up the bill and ordered it favorably reported without amendment by voice vote, and the report (H. Rept. 112-15) was filed on February 22, 2011. At the request of Chairman Camp in a letter submitted to the Rules Committee on February 28, 2011, the text of H.R. 4 was subsequently replaced by the text of H.R. 705, the “Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011,” which the Committee had separately marked up and ordered reported, as amended, on February 17, 2011. (The report on H.R. 705 (H. Rept. 112-16) was filed on February 22, 2011.) For further information on H.R. 705, see section 2h. On March 3, 2011, the House passed H.R. 4, as amended (which incorporated the text of H.R. 705 as reported by the Ways and Means Committee), under a rule by a vote of 314 – 112. On April 5, 2011, the Senate passed the bill without further amendment by a recorded vote of 87–12. On April 14, 2011, the President signed the bill into law.

As reported by the Committee, H.R. 4 would have repealed section 9006 of the Patient Protection and Affordable Care Act of 2010 (“PPACA”) (P. L. 111-148), which expanded certain information reporting requirements under Internal Revenue Code section 6041 for payments of \$600 or more to corporations or with respect to gross proceeds for property. As enacted, H.R. 4 amended the Internal Revenue Code to provide for: (1) the repeal of the expanded information reporting requirements enacted in section 9006 of PPACA (P. L. 111-148) for payments of \$600 or more to corporations or with respect to gross proceeds for property, (2) the repeal of the information reporting requirements with respect to real estate expenses enacted in section 2101 of the Small Business Jobs Act of 2010 (P. L. 111-240), and (3) an increase in the amount of the required repayment of overpayments of premium assistance credits for health insurance purchased through an exchange.

*d. Department of Defense and Full-Year Continuing Appropriations Act, 2011 (P.L. 112-10)*

On April 11, 2011, House Appropriations Committee Chairman Harold Rogers introduced H.R. 1473, legislation to provide continuing appropriations for the remainder of FY 2011. On April 14, 2011, the House passed H.R. 1473 under a rule by a vote of 260-167. On April 14, 2011, the House-passed bill passed the Senate by a vote of 81-19. On April 15, 2011, the President signed the bill into law.

H.R. 1473 included provisions – which had previously passed the House as part of H.R. 471, see section 2g – authorizing educational scholarships for certain students residing in Washington, D.C. The tax-related provisions of this portion of the legislation provided a rule of construction stating that the education scholarships provided to parents of eligible students under the bill are not to be treated as income under Federal tax law.

*e. Airport and Airway Extension Act of 2011, Part II (P.L. 112-16)*

On May 13, 2011, Transportation and Infrastructure Committee Chairman John Mica and six cosponsors – Chairman Camp, Ranking Member Levin, Representative Jerry Costello, Representative John Lewis, Representative Thomas Petri, and Representative Nick Rahall, II – introduced H.R. 1893, the “Airport and Airway Extension Act of 2011, Part II.” On May 23, 2011, Chairman Camp and Chairman Mica exchanged letters acknowledging the jurisdiction of the Ways and Means Committee on the bill’s tax-related provisions. The Ways and Means Committee had, on March 16, 2011, ordered favorably reported legislation

(H.R. 1034) similar to the tax-related provisions of H.R. 1893. For additional information on H.R. 1034, see section 2j. On May 23, 2011, the House passed H.R. 1893 under suspension of the rules by voice vote. On May 24, 2011, the Senate passed the bill without amendment by unanimous consent. On May 31, 2011, the President signed the bill into law.

H.R. 1893 extended through June 30, 2011 the authorization of various airport and airway programs under the jurisdiction of the Transportation and Infrastructure Committee. The tax-related provisions of H.R. 1893 extended through June 30, 2011 the Internal Revenue Code's expenditure authority for the Airport and Airway Trust Fund and the excise taxes that support the Airport and Airway Trust Fund.

*f. Airport and Airway Extension Act of 2011, Part III (P.L. 112-21)*

On June 22, 2011, Transportation and Infrastructure Committee Chairman John Mica and two cosponsors – Chairman Camp and Representative Thomas Petri – introduced H.R. 2279, the “Airport and Airway Extension Act of 2011, Part III.” The Ways and Means Committee had, on March 16, 2011, ordered favorably reported legislation (H.R. 1034) similar to the tax-related provisions of H.R. 2279. For additional information on H.R. 1034, see section 2j. On June 24, 2011, Chairman Camp and Chairman Mica exchanged letters acknowledging the jurisdiction of the Ways and Means Committee on the bill's tax-related provisions. On June 24, 2011, the House passed H.R. 2279 by unanimous consent. On June 27, 2011, the Senate passed the bill without amendment by unanimous consent. On June 29, 2011, the President signed the bill into law.

H.R. 2279 extended through July 22, 2011 the authorization of various airport and airway programs under the jurisdiction of the Transportation and Infrastructure Committee. The tax-related provisions of H.R. 2279 extended through July 22, 2011 the Internal Revenue Code's expenditure authority for the Airport and Airway Trust Fund and the excise taxes that support the Airport and Airway Trust Fund.

*g. Airport and Airway Extension Act of 2011, Part IV (P.L. 112-27)*

On July 15, 2011, Transportation and Infrastructure Committee Chairman John Mica and two cosponsors – Chairman Camp and Representative Thomas Petri – introduced H.R. 2553, the “Airport and Airway Extension Act of 2011, Part IV.” The Ways and Means Committee had, on March 16, 2011, ordered favorably reported legislation (H.R. 1034) similar to the tax-related provisions of H.R. 2553. For additional information on H.R. 1034, see section 2j. On July 18, 2011, Chairman Camp and Chairman Mica exchanged letters acknowledging the jurisdiction of the Ways and Means Committee on the bill's tax-related provisions. On July 20, 2011, the House passed H.R. 2553 under a rule by a vote of 243-177. On August 5, 2011, the Senate passed the bill without amendment by unanimous consent. On August 5, 2011, the President signed the bill into law.

H.R. 2553 extended through September 16, 2011 the authorization of various airport and airway programs under the jurisdiction of the Transportation and Infrastructure Committee. The tax-related provisions of H.R. 2553 extended through September 16, 2011 the Internal Revenue Code's expenditure authority for the Airport and Airway Trust Fund and the excise taxes that support the Airport and Airway Trust Fund.

*h. Leahy-Smith America Invents Act (P.L. 112-29)*

On March 30, 2011, Judiciary Committee Chairman Lamar Smith and five cosponsors – Representative Steve Chabot, Representative John Duncan, Jr., Representative Elton Gallegly, Representative Bob Goodlatte, and Representative Darrell Issa – introduced H.R. 1249, legislation concerning the nation's patent system. On June 22, 2011 and June 24, 2011, Chairman Camp and Chairman Smith exchanged letters acknowledging the jurisdiction of the Ways and Means Committee on the bill's tax-related provisions. On June 23, 2011, the

House passed H.R. 1249, as amended, under a rule by a vote of 304-117. On September 8, 2011, the Senate passed the bill without amendment by a vote of 89-9. On September 16, 2011, the President signed the bill into law.

*i. Surface and Air Transportation Programs Extension Act of 2011 (P.L. 112-30)*

On September 12, 2011, Transportation and Infrastructure Committee Chairman John Mica and six cosponsors – Chairman Camp, Ranking Member Levin, Representative John Duncan, Jr., Representative John Lewis, Representative Thomas Petri, and Representative Nick Rahall, II – introduced H.R. 2887, the “Surface and Air Transportation Programs Extension Act of 2011.” The Ways and Means Committee had, on March 16, 2011, ordered favorably reported legislation (H.R. 1034) similar to the tax-related aviation provisions contained in H.R. 2887. For additional information on H.R. 1034, see section 2j. On September 13, 2011, Chairman Camp and Chairman Mica exchanged letters acknowledging the jurisdiction of the Ways and Means Committee on the bill’s tax-related provisions. On September 13, 2011, the House passed H.R. 2887 under suspension of the rules by voice vote. On September 15, 2011, the Senate passed the bill without amendment by a vote of 92-6. On September 16, 2011, the President signed the bill into law.

H.R. 2887 extended through January 31, 2012 the authorization of various airport and airway programs under the jurisdiction of the Transportation and Infrastructure Committee. The tax-related provisions of the aviation-related portions of H.R. 2887 extended through January 31, 2012 the Internal Revenue Code’s expenditure authority for the Airport and Airway Trust Fund and the excise taxes that support the Airport and Airway Trust Fund. In addition, the highway trust fund expenditure authority and associated excise taxes—which had been scheduled to expire on September 30, 2011—were extended through March 31, 2012. As part of the highway trust fund title, the bill also extended through March 31, 2012 the Leaking Underground Storage Tank Trust Fund excise tax.

*j. Trade Adjustment Assistance Extension Act / Health Coverage Tax Credit Termination (P.L. 112-40)*

On September 2, 2011, Chairman Camp introduced legislation (H.R. 2832) to extend the Generalized System of Preferences (GSP). Prior to its enactment on October 21, 2011, this legislation was amended to include an extension of the Trade Adjustment Assistance program, including an extension and termination of the Health Coverage Tax Credit (HCTC). For a detailed summary of the legislative history of H.R. 2832 and of the trade provisions of the bill, as enacted, see Part IB, section 5.

With respect to the HCTC, H.R. 2832, as enacted, retroactively extended the credit from February 13, 2011, through December 31, 2013, at a reduced rate of 72.5 percent. After December 31, 2013, the legislation terminated the HCTC in its entirety.

*k. United States-Korea Free Trade Agreement Implementation Act (P.L. 112-41)*

On October 3, 2011, House Majority Leader Eric Cantor introduced legislation (H.R. 3080) to implement the U.S.-Korea Free Trade Agreement. For a detailed summary of the legislative history of H.R. 3080 and of the trade provisions of the bill, as enacted, see Part IB, section 1c.

H.R. 3080 contained several tax-related provisions. First, it increased, from \$100 to \$500, the penalty for paid tax preparers who fail to comply with earned income tax credit due diligence requirements. Second, H.R. 3080 required the head of the Federal Bureau of Prisons and the head of any State agency that administers prisons to provide to the Secretary of the Treasury, in electronic format, certain information regarding incarcerated inmates to assist in ensuring that inmates are not filing fraudulent returns. Finally, with respect to corporations with at least \$1 billion in assets, H.R. 3080: (1) increased by 0.25

percent the rate of corporate estimated tax payments due in July, August, or September of 2012 under subparagraph (B) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 (P.L. 109-22), (2) increased by 2.75 percent the rate of corporate estimated tax payments due in July, August, or September of 2016 under subparagraph (B) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 (P.L. 109-22), and (3) reduced, with respect to any such increases, the next required installments by a corresponding amount.

*l. United States-Colombia Free Trade Agreement Implementation Act (P.L. 112-42)*

On October 3, 2011, House Majority Leader Eric Cantor introduced legislation (H.R. 3078) to implement the U.S.-Colombia Free Trade Agreement. For a detailed summary of the legislative history of H.R. 3078 and of the trade provisions of the bill, as enacted, see Part IB, section 1a.

H.R. 3078 contained one tax provision. With respect to corporations with at least \$1 billion in assets, H.R. 3078 increased by 0.5 percent the rate of corporate estimated tax payments due in July, August, or September of 2016 under subparagraph (B) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005, and reduced the next required installments by a corresponding amount.

*m. United States-Panama Free Trade Agreement Implementation Act (P.L. 112-43)*

On October 3, 2011, House Majority Leader Eric Cantor introduced legislation (H.R. 3079) to implement the U.S.-Panama Free Trade Agreement. For a detailed summary of the legislative history of H.R. 3079 and of the trade provisions of the bill, as enacted, see Part IB, section 1b.

H.R. 3079 contained one tax provision. With respect to corporations with at least \$1 billion in assets, H.R. 3079: (1) increased by 0.25 percent the rate of corporate estimated tax payments due in July, August, or September of 2012 under subparagraph (B) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005, (2) increased by 0.25 percent the rate of corporate estimated tax payments due in July, August, or September of 2016 under subparagraph (B) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005, and (3) reduced, with respect to any such increases, the next required installments by a corresponding amount.

*n. Amending the Internal Revenue Code of 1986 to repeal the imposition of 3 percent withholding on certain payments made to vendors by government entities, to modify the calculation of modified adjusted gross income for purposes of determining eligibility for certain healthcare-related programs, and for other purposes (P.L. 112-56)*

On February 11, 2011, Representative Wally Herger – along with 10 cosponsors – introduced H.R. 674, “To amend the Internal Revenue Code of 1986 to repeal the imposition of 3 percent withholding on certain payments made to vendors by government entities.” On October 13, 2011, the Committee marked up the bill and ordered it favorably reported without amendment by voice vote, and the report (H. Rept. 112-253) was filed on October 18, 2011. On October 27, 2011, the House passed H.R. 674 under a rule by a vote of 405-16. Pursuant to the rule (H. Res. 448), in the engrossment of H.R. 674, the text of H.R. 2576 was added to the end of H.R. 674 (see section 2m). On November 10, 2011, the Senate passed the bill with an amendment by a vote of 95-0. On November 16, 2011, the House voted to suspend the rules and agree to the Senate amendment by a vote of 422-0. On November 21, 2011, the President signed the bill into law.

As originally passed by the House and sent to the Senate on October 27, 2011, H.R. 674 would have: (1) permanently repealed the 3 percent withholding requirement on certain payments made to contractors doing business with federal, state, and local

governments, and (2) modified the definition of income used for determining eligibility for Exchange subsidies, Medicaid, and the Children’s Health Insurance Program (CHIP). As modified by the Senate on November 10, 2011 – and subsequently cleared by the House on November 16, 2011 and enacted into law on November 21, 2011 – H.R. 674 retained both tax provisions contained in the original House-passed bill and also included various tax- and non-tax provisions related to veterans as well as certain additional tax-related provisions. As enacted, H.R. 674 contained the following tax-related provisions: (1) a permanent repeal of the 3 percent withholding requirement on certain payments made to contractors doing business with federal, state, and local governments, (2) a modification of the definition of income used for determining eligibility for Exchange subsidies, Medicaid, and the Children’s Health Insurance Program (CHIP), (3) an expansion and extension through 2012 of the Work Opportunity Tax Credit (WOTC) with respect to the hiring of certain unemployed veterans, (4) a tax compliance provision related to Internal Revenue Service levy authority with respect to Federal contractors with unpaid tax liabilities, and (5) a study regarding tax non-compliance by Federal contractors.

*o. Airport and Airway Extension Act of 2012 (P.L. 112-91)*

On January 23, 2012, Transportation and Infrastructure Committee Chairman John Mica and six cosponsors – Chairman Camp, Ranking Member Levin, Representative John Lewis, Representative Thomas Petri, Representative Nick Rahall, and Representative Jerry Costello – introduced H.R. 3800, the “Airport and Airway Extension Act of 2012.” On January 24, 2012, Chairman Camp and Chairman Mica exchanged letters acknowledging the jurisdiction of the Ways and Means Committee on the bill’s tax-related provisions. On January 24, 2012, the House agreed to the bill by voice vote, and the Senate passed the bill by unanimous consent on January 26, 2012. The President signed the bill into law on January 31, 2012.

H.R. 3800 extended through February 17, 2012 the authorization of various airport and airway programs under the jurisdiction of the Transportation and Infrastructure Committee. The tax-related provisions of H.R. 3800 extended through February 17, 2012 the Internal Revenue Code’s expenditure authority for the Airport and Airway Trust Fund and the excise taxes that support the Airport and Airway Trust Fund (which had been scheduled to expire on January 31, 2012).

*p. FAA Modernization and Reform Act of 2012 (P.L. 112-95)*

On February 11, 2011, Transportation and Infrastructure Committee Chairman John Mica – along with 21 cosponsors – introduced H.R. 658, the “FAA Reauthorization and Reform Act of 2011.” On March 11, 2011, Chairman Camp introduced related legislation, the “Airport and Airway Trust Fund Financing Reauthorization Act of 2011” (H.R. 1034). On March 16, 2011, the Ways and Means Committee held a mark-up on H.R. 1034 and ordered it favorably reported by voice vote, and the report (H. Rept. 112-44, Part I) was filed on March 29, 2011. As noted in a March 29, 2011 letter from Chairman Camp to Rules Committee Chairman David Dreier, the text of H.R. 1034, as reported by the Ways and Means Committee, was, at Chairman Camp’s request, incorporated into the March 22, 2011 Rules Committee Print of H.R. 658 prior to that bill’s consideration by the Rules Committee. For further information on H.R. 1034, see section 2j. On April 1, 2011, the House passed H.R. 658, as amended, to incorporate the text of H.R. 1034, under a rule by a vote of 223-196. On April 7, 2011, the Senate amended the bill by substituting the House-passed text with the language of S. 223 and, by unanimous consent, passed the bill as amended. On the same date, the Senate requested a conference. On January 31, 2012, the House, by unanimous consent, agreed to a motion to disagree to the Senate amendment and to agree to a conference. On February 1, 2012, the conference report (H. Rept. 112-381) was filed.

On February 3, 2012, the House agreed to the conference report under a rule by a vote of 248-169, and on February 6, 2012, the Senate agreed to the conference report by a vote of 75-20. On February 14, 2012, President Obama signed the conference report into law (P.L. 112-95).

As introduced on February 11, 2011, H.R. 658 provided for the authorization of the Federal Aviation Administration (FAA) and related programs under the jurisdiction of the Transportation and Infrastructure Committee through FY 2014. As passed by the House – reflecting the incorporation of the text of H.R. 1034 – the bill also extended through September 30, 2014 the Internal Revenue Code’s expenditure authority for the Airport and Airway Trust Fund (AATF) and the excise taxes that support the AATF. The tax title of the Senate-passed version included a shorter extension of AATF expenditure authority and the associated excise taxes, as well as various other provisions.

The conference report that was enacted into law on February 14, 2012 provided for the authorization of the Federal Aviation Administration (FAA) and related programs under the jurisdiction of the Transportation and Infrastructure Committee through FY 2015. The tax title of the conference report extended the federal excise taxes funding the AATF at their existing rates and reauthorized AATF expenditure authority through September 30, 2015. The tax title of the conference report also included provisions that: classified fractional aircraft ownership flights as noncommercial for tax purposes through September 30, 2015, along with imposing a 14.1 cent per gallon surtax on fractional aircraft fuel through September 30, 2021; enhanced transparency in passenger tax disclosures; permitted tax-exempt bond financing for fixed-wing emergency medical aircraft; allowed employees of airlines to roll over certain amounts received in airline carrier bankruptcy into Individual Retirement Accounts; terminated the ticket and cargo tax exemption for small jet aircraft on non-established lines; and modified the control definition for purposes of limitations on convertible bond repurchase premium deductibility.

*q. Surface Transportation Extension Act of 2012 (P.L. 112-102)*

On March 28, 2012, Transportation and Infrastructure Committee Chairman John Mica and two cosponsors – Chairman Camp and Representative John Duncan – introduced H.R. 4281, the “Surface Transportation Extension Act of 2012.” On March 29, 2012, Chairman Camp and Chairman Mica exchanged letters acknowledging the jurisdiction of the Ways and Means Committee on the bill’s tax-related provisions. On March 29, 2012, the House passed the bill, under a rule, by a vote of 266–158, and the Senate passed it without amendment by voice vote later that same day. The President signed the bill into law on March 30, 2012.

H.R. 4281 extended through June 30, 2012 the authorization of various surface transportation programs under the jurisdiction of the Transportation and Infrastructure Committee. The tax-related provisions of H.R. 4281 extended through June 30, 2012 the Internal Revenue Code’s expenditure authority for the Highway Trust Fund and generally extended the associated excise taxes (which had been scheduled to expire on March 31, 2012) through June 30, 2012.

2. TAX RELIEF AND OTHER PROPOSALS DURING THE 112<sup>TH</sup> CONGRESS  
(JANUARY 5, 2011 TO MAY 31, 2012)

*a. Repealing the Job-Killing Health Care Law Act (H.R. 2)*

On January 5, 2011, Majority Leader Eric Cantor, along with Chairman Camp and 150 other cosponsors, introduced H.R. 2, the “Repealing the Job-Killing Health Care Law Act.” On January 19, 2011, the House passed the bill, as amended, under a rule by a vote of

245-189. As of May 31, 2012, the Senate had not yet taken up the legislation.

As passed by the House, H.R. 2 would repeal the “Patient Protection and Affordable Care Act of 2010” (P. L. 111-148) and the health care provisions of the “Health Care and Education Reconciliation Act of 2010” (P.L. 111-152), including the tax provisions contained in those two laws.

*b. No Taxpayer Funding for Abortion Act (H.R. 3)*

On January 20, 2011, Representative Christopher Smith and 161 cosponsors introduced H.R. 3, the “No Taxpayer Funding for Abortion Act.” The bill was referred to the Judiciary Committee, as well as to the Energy and Commerce Committee and to the Ways and Means Committee. On March 3, 2011, the Judiciary Committee ordered H.R. 3, as amended, reported favorably by a vote of 23-14, and the report (H. Rept. 112-38, Part 1) was filed on March 17, 2011. On March 16, 2011, by letter of request from Chairman Camp, the Subcommittee on Select Revenue Measures held a hearing on the tax provisions contained in H.R. 3 as ordered reported by the Judiciary Committee. Following that hearing, on March 29, 2011, Chairman Camp introduced related legislation, H.R. 1232, in order to address potential ambiguities with respect to the application of certain tax provisions contained in H.R. 3. On March 31, 2011, the Ways and Means Committee marked up H.R. 1232 and ordered it favorably reported, with an amendment, by a vote of 22-14, and the report (H. Rept. 112-55) was filed on April 6, 2011. For further information on H.R. 1232, see section 2l. Under the rule governing consideration of H.R. 3 on the House Floor, an amendment in the nature of a substitute offered by Judiciary Committee Chairman Smith and Chairman Camp – which substituted the text of H.R. 1232 for the tax provisions of H.R. 3 as reported by the Judiciary Committee – was adopted. On May 4, 2011, the House passed H.R. 3, as amended by a vote of 251-175. As of May 31, 2012, the Senate had not yet taken up the legislation.

As ordered reported by the Judiciary Committee on March 3, 2011, H.R. 3 would not have directly amended the Internal Revenue Code. However, it would have affected the Code by prohibiting certain tax benefits from being used to pay for abortions or for health benefit plans that cover abortions. Specifically, the bill sought to prevent abortions from being paid for with Federal tax credits or deductions or with funds withdrawn on a tax-preferred basis from certain trusts and accounts. As passed by the House – reflecting the incorporation of the text of H.R. 1232 – H.R. 3 would: (1) disallow the refundable premium tax credit for coverage under qualified health plans that provide coverage for abortion; (2) disallow the small employer health insurance expense credit for plans that include coverage for abortion; (3) include in gross income any amounts used for abortion that are distributed from Archer Medical Savings Accounts, Health Savings Accounts, and Health Flexible Spending Arrangements (FSAs); and (4) disallow the deduction for medical expenses for abortion-related expenses. The bill’s provisions would not apply to abortions in cases of rape, incest, or life-threatening physical condition of the mother, and they would not apply to the treatment of injury, infection, or other health problems resulting from an abortion.

*c. Small Business Tax Cut Act (H.R. 9)*

On March 21, 2012, Majority Leader Eric Cantor introduced H.R. 9, the “Small Business Tax Cut Act.” On March 28, 2012, the Committee held a mark-up on the bill and ordered it favorably reported, as amended, by a vote of 21-14, and the report (H. Rept. 112-425) was filed on April 10, 2012. On April 19, 2012, the House passed H.R. 9, as amended, under a rule, by a vote of 235-173, with one Member voting “Present.” As of May 31, 2012, the Senate had not yet taken up the legislation.

As passed by the House, H.R. 9 would provide all qualified small businesses with fewer than 500 employees, regardless of whether they are organized as pass-through

businesses (e.g., S corporations, partnerships, or sole proprietorships) or as C corporations, a 20-percent deduction against active business income for tax year 2012.

*d. Protect Life Act (H.R. 358)*

On January 20, 2011, Representative Joseph Pitts – along with 89 cosponsors – introduced H.R. 358, the “Protect Life Act.” The bill was referred to the Energy and Commerce Committee and was sequentially referred to the Ways and Means Committee. On September 14, 2011, and September 15, 2011, Chairman Camp and Chairman Upton exchanged letters acknowledging the jurisdiction of the Ways and Means Committee on the bill’s tax-related provisions. On October 13, 2011, the House passed the bill under a rule by a vote of 251-172. As of May 31, 2012, the Senate had not yet taken up the legislation.

As passed by the House, H.R. 358 would generally prohibit Federal funds – including the refundable premium assistance tax credit applied toward qualified health plans under Sec. 36B of the Internal Revenue Code – from being used to pay for the costs of any abortion or to cover any part of the costs of any health plan that includes coverage of abortion.

*e. Termination of Taxpayer Financing of Presidential Election Campaigns and Party Conventions (H.R. 359)*

On January 20, 2011, Representative Tom Cole, along with seven cosponsors – Representative Todd Akin, Representative Roscoe Bartlett, Representative Rob Bishop, Representative John Campbell, Representative Virginia Foxx, Representative Doug Lamborn, and Representative Tom McClintock – introduced H.R. 359, legislation to terminate taxpayer financing of Presidential election campaigns and party conventions. On January 26, 2011, the House passed H.R. 359 under a rule by a vote of 239 – 160. As of May 31, 2012, the Senate had not yet taken up the legislation.

As passed by the House, H.R. 359 would amend the Internal Revenue Code to terminate: (1) the taxpayer election to designate \$3 of income tax liability for financing of Presidential election campaigns; (2) the Presidential Election Campaign Fund; and (3) the Presidential Primary Matching Payment Account. The bill would also require the Secretary of the Treasury to transfer all amounts in the Presidential Election Campaign Fund after its termination to the general fund of the Treasury, to be used only for deficit reduction.

*f. Protect Medical Innovation Act of 2011 (H.R. 436)*

On January 25, 2011, Representative Erik Paulsen – along with 41 cosponsors – introduced H.R. 436, the “Protect Medical Innovation Act of 2011.” On May 31, 2012, the Committee marked up H.R. 436 and ordered it favorably reported, as amended, by a vote of 23-11.

As ordered reported by the Committee, H.R. 436 would repeal the excise tax on medical devices imposed under the Patient Protection and Affordable Care Act (“PPACA”) (P.L. 111-148) and the Health Care and Education Reconciliation Act (“HCERA”) (P.L. 111-152). The medical device excise tax, which is slated to begin in 2013, is a 2.3 percent excise tax on the manufacture or import of certain “medical devices” (as defined by section 201(h) of the Federal Food, Drug, and Cosmetic Act).

*g. Scholarships for Opportunity and Results Act (H.R. 471)*

On January 26, 2011, Speaker of the House John Boehner, along with five cosponsors – Representative Darrell Issa, Representative John Kline, Representative Daniel Lipinski, Representative Duncan Hunter, and Representative Trey Gowdy – introduced H.R. 471, legislation to authorize educational scholarships for certain students residing in Washington, D.C. On March 30, 2011, the House passed H.R. 471, as amended, under a rule by a vote of 225-195. A version of this proposal was subsequently enacted into law as part of H.R. 1473,

the “Department of Defense and Full-Year Continuing Appropriations Act, 2011” (see section 1d). As of May 31, 2012, the Senate had not yet taken up the legislation.

The tax-related provisions of H.R. 471 – which were subsequently enacted into law as part of H.R. 1473 – provide a rule of construction stating that the education scholarships provided to parents of eligible students under the bill are not to be treated as income under Federal tax law.

*h. Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011 (H.R. 705)*

On February 15, 2011, Chairman Camp introduced H.R. 705, the “Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011.” On February 17, 2011, the Committee held a mark-up on the bill and ordered it favorably reported, as amended, by a vote of 21-15, and the report (H. Rept. 112-16) was filed on February 22, 2011. At the request of Chairman Camp in a letter submitted to the Rules Committee on February 28, 2011, the text of H.R. 705, as reported by the Ways and Means Committee, was subsequently substituted for the text of H.R. 4, the “Small Business Paperwork Mandate Elimination Act of 2011.” On April 14, 2011, H.R. 4 – as amended to incorporate the text of H.R. 705 – was signed into law by the President. For further information on H.R. 4, see section 1c.

As reported by the Ways and Means Committee – and subsequently enacted into law as H.R. 4 – H.R. 705 amends the Internal Revenue Code to provide for: (1) the repeal of the expanded information reporting requirements enacted in section 9006 of PPACA (P. L. 111-148) for payments of \$600 or more to corporations or with respect to gross proceeds for property, (2) the repeal of the information reporting requirements with respect to real estate expenses enacted in section 2101 of the Small Business Jobs Act of 2010 (P. L. 111-240), and (3) an increase in the amount of the required repayment of overpayments of premium assistance credits for health insurance purchased through an exchange.

*i. Medical FSA Improvement Act of 2011 (H.R. 1004)*

On March 10, 2011, Representative Charles Boustany – along with five cosponsors – introduced H.R. 1004, the “Medical FSA Improvement Act of 2011.” On May 31, 2012, the Committee marked up the bill and ordered it favorably reported, as amended, by a vote of 23-6.

As ordered reported by the Committee, H.R. 1004 would, effective for plan years beginning after 2012, allow employees with health flexible spending arrangements (FSAs) funded through salary reductions to “cash out” any remaining balance at the end of the year, up to \$500, and have it treated it as taxable compensation.

*j. Airport and Airway Trust Fund Financing Reauthorization Act of 2011 (H.R. 1034)*

On March 11, 2011, Chairman Camp introduced H.R. 1034, the “Airport and Airway Trust Fund Financing Reauthorization Act of 2011.” On March 16, 2011, the Committee held a mark-up on the bill and ordered it favorably reported by voice vote, and the report (H. Rept. 112-44, Part I) was filed on March 29, 2011. As noted in a March 29, 2011 letter from Chairman Camp to Rules Committee Chairman David Dreier, the text of H.R. 1034, as reported by the Ways and Means Committee, was, at Chairman Camp’s request, incorporated into the March 22, 2011 Rules Committee Print of H.R. 658 prior to that bill’s consideration by the Rules Committee. For further information on H.R. 658, the FAA reauthorization bill that was ultimately enacted into law (as amended) on February 14, 2012, see section 1p. For further information on other related bills that were also passed by the House and signed into law by the President following Committee action on H.R.

1034, see sections 1b, 1e, 1f, 1g, 1i, and 1o, regarding H.R. 1079, H.R. 1893, H.R. 2279, H.R. 2553, H.R. 2887, and H.R. 3800, respectively.

As reported by the Ways and Means Committee, H.R. 1034 would reauthorize through September 30, 2014 the Internal Revenue Code's expenditure authority for the Airport and Airway Trust Fund and the excise taxes that support the Airport and Airway Trust Fund.

*k. Fiscal Responsibility and Retirement Security Act of 2011 (H.R. 1173)*

On March 17, 2011, Representative Charles Boustany – along with eight cosponsors – introduced H.R. 1173, the “Fiscal Responsibility and Retirement Security Act of 2011.” The House Committee on Energy and Commerce favorably reported the bill, as amended, on December 23, 2011 (H. Rept. 112-342, Part 1). On January 18, 2012, the Ways and Means Committee marked up the bill and ordered it favorably reported by a vote of 23-13, and the report (H. Rept. 112-342, Part 2) was filed on January 23, 2012. On February 1, 2012, the House passed the bill, as amended, under a rule, by a vote of 267-159. As of May 31, 2012, the Senate had not taken up the legislation.

The bill would repeal the Community Living Assistance Services and Supports (CLASS) program, a new long-term care insurance entitlement enacted as part of the “Patient Protection and Affordable Care Act of 2010” (P.L. 111-148). While most of the CLASS program is within the jurisdiction of the House Energy and Commerce Committee, the statute also specifies that, for Federal tax purposes, the CLASS program is to be treated as a qualified long-term health insurance contract, which implicates the Ways and Means Committee's jurisdiction. As part of its repeal of the entire CLASS program, H.R. 1173 would repeal the provisions of the CLASS Act related to the tax treatment of the program.

*l. Amending the Internal Revenue Code of 1986 to eliminate certain tax benefits relating to abortion (H.R. 1232)*

On March 29, 2011, Chairman Camp introduced H.R. 1232, a bill to amend the Internal Revenue Code to eliminate certain tax benefits relating to abortion. This legislation was developed to address potential ambiguities with respect to the application of certain tax provisions contained in a related bill, the “No Taxpayer Funding for Abortion Act” (H.R. 3), which was the subject of a March 16, 2011 hearing of the Subcommittee on Select Revenue Measures. On March 31, 2011, the Ways and Means Committee marked up H.R. 1232 and ordered it favorably reported, with an amendment, by a vote of 22-14, and the report (H. Rept. 112-55) was filed on April 6, 2011. Under the rule governing consideration of H.R. 3 on the House Floor, an amendment in the nature of a substitute offered by Judiciary Committee Chairman Smith and Chairman Camp – which substituted the text of H.R. 1232 for the tax provisions of H.R. 3 as reported by the Judiciary Committee – was adopted. On May 4, 2011, the House passed H.R. 3, as amended to incorporate the text of H.R. 1232 as reported by the Ways and Means Committee, under that rule by a vote of 251-175. As of May 31, 2012, the Senate had not yet taken up the legislation. For further information on H.R. 3, see section 2b.

As reported by the Ways and Means Committee – and subsequently included in H.R. 3 as a replacement for that bill's tax provisions – H.R. 1232 would: (1) disallow the refundable premium tax credit for coverage under qualified health plans that provide coverage for abortion; (2) disallow the small employer health insurance expense credit for plans that include coverage for abortion; (3) include in gross income any amounts used for abortion that are distributed from Archer Medical Savings Accounts, Health Savings Accounts, and Health Flexible Spending Arrangements (FSAs); and (4) disallow the deduction for medical expenses for abortion-related expenses. The bill's provisions would not apply to abortions in cases of rape, incest, or life-threatening physical condition of the

mother, and they would not apply to the treatment of injury, infection, or other health problems resulting from an abortion.

*m. Amending the Internal Revenue Code of 1986 to modify the calculation of modified adjusted gross income for purposes of determining eligibility for certain healthcare-related programs (H.R. 2576)*

On July 18, 2011, Representative Diane Black and three cosponsors – Representative John Duncan, Jr., Representative Peter Roskam, and Representative Kurt Schrader – introduced H.R. 2576, “To amend the Internal Revenue Code of 1986 to modify the calculation of modified adjusted gross income for purposes of determining eligibility for certain healthcare-related programs.” On October 13, 2011, the Committee marked up the bill and ordered it favorably reported by a vote of 23-12, and the report (H. Rept. 112-254) was filed on October 18, 2012. On October 27, 2011, the House passed the bill under a rule by a vote of 262-157. Pursuant to H. Res. 448, in the engrossment of H.R. 674, the text of H.R. 2576 was added to the end of H.R. 674.

The 2010 health care law uses a uniform definition of modified adjusted gross income (“MAGI”) to determine eligibility for Exchange subsidies, Medicaid, and the Children’s Health Insurance Program (CHIP). That law’s use of MAGI as the basis of eligibility determinations understates the resources available to some households. The MAGI definition is based on adjusted gross income, a tax law term that excludes, for income tax purposes, a portion of Social Security benefits. As a result, the current health law does not take into account the entire Social Security benefit when determining eligibility for certain types of government-subsidized health insurance. H.R. 2576 would count the entire Social Security benefit, rather than just the portion that is taxable for income tax purposes, as income for determining eligibility for Exchange subsidies, Medicaid, and CHIP. H.R. 2576 would bring the income requirements for these health programs into closer alignment with the measurement of income for other federal social welfare programs, like public housing assistance. H.R. 2576 would not affect the tax treatment of Social Security benefits.

*n. To reduce Federal spending and the deficit by terminating taxpayer financing of presidential election campaigns and party conventions and by terminating the Election Assistance Commission (H.R. 3463)*

On November 17, 2011, Representative Gregg Harper, along with Representative Tom Cole, introduced H.R. 3463, legislation to terminate taxpayer financing of Presidential election campaigns and party conventions and to terminate the Election Assistance Commission. On December 1, 2011, the House passed H.R. 3463, under a rule, by a vote of 235–190. As of May 31, 2012, the Senate had not yet taken up the legislation. For further information on a related bill, see section 2e.

As passed by the House, H.R. 3463 would amend the Internal Revenue Code to terminate: (1) the taxpayer election to designate \$3 of income tax liability for financing of Presidential election campaigns; (2) the Presidential Election Campaign Fund; and (3) the Presidential Primary Matching Payment Account. The bill would also require the Secretary of the Treasury to transfer all amounts in the Presidential Election Campaign Fund after its termination to the general fund of the Treasury. H.R. 3463 also contains non-tax-related provisions related to termination of the Election Assistance Commission.

*o. American Energy and Infrastructure Jobs Financing Act of 2012 (H.R. 3864)*

On February 1, 2012, Chairman Camp introduced H.R. 3864, the “American Energy and Infrastructure Jobs Financing Act of 2012.” On February 3, 2012, the Committee held a mark-up on the bill and ordered the bill favorably reported, as amended, by a vote of 20-17, and the report (H. Rept. 112-396, Part 1) was filed on February 9, 2012. As noted in a

February 7, 2012 letter from Chairman Camp to Rules Committee Chairman David Dreier, the text of H.R. 3864, as ordered reported by the Ways and Means Committee (with certain further modifications), was, at Chairman Camp's request, incorporated into the February 8, 2012 Rules Committee Print of H.R. 7 prior to that bill's consideration by the Rules Committee. For further information on a related bill subsequently passed by the House and signed into law by the President following Committee action on H.R. 3864, see section 1q regarding H.R. 4281. For further information on a related bill subsequently passed by the House and on which, as of May 31, 2012, a conference with the Senate had been convened (with no conference report having yet been filed), see section 2p regarding H.R. 4348.

As reported by the Committee, H.R. 3864 would reauthorize through September 30, 2016 expenditure authority for the Highway Trust Fund (HTF) and extend through September 30, 2018 the current Federal excise taxes that fund the HTF. H.R. 3864 would also restructure the funding sources for the Highway Account and Mass Transit Account, which comprise the HTF, and deposit certain non-tax revenues into the HTF without increasing the deficit.

*p. Surface Transportation Extension Act of 2012, Part II (H.R. 4348)*

On April 16, 2012, Transportation and Infrastructure Committee Chairman John Mica and two cosponsors – Chairman Camp and Representative Lee Terry – introduced H.R. 4348, the “Surface Transportation Extension Act of 2012.” On April 17, 2012, Chairman Camp and Chairman Mica exchanged letters acknowledging the jurisdiction of the Ways and Means Committee on the bill's tax-related provisions. On April 18, 2012, the House passed the bill as amended, under a rule, by a vote of 293-127. On April 24, 2012, the Senate amended the bill by substituting the House-passed text with the language of S. 1813 (as amended) and, by unanimous consent, passed the bill as amended. On the same date, the Senate requested a conference. On April 25, 2012, the House, by unanimous consent, agreed to a motion to disagree to the Senate amendment and to agree to a conference. As of May 31, 2012, no conference report had yet been filed.

As passed by the House on April 18, 2012, H.R. 4348 would extend through September 30, 2012 the authorization of various surface transportation programs under the jurisdiction of the Transportation and Infrastructure Committee. The tax-related provisions of H.R. 4348 would extend through September 30, 2012 the Internal Revenue Code's expenditure authority for the Highway Trust Fund and the associated excise taxes (which, as of May 31, 2012, are generally scheduled to expire on June 30, 2012).

*q. Sequester Replacement Reconciliation Act of 2012 (H.R. 5652) / Ways and Means Committee Budget Reconciliation Legislative Recommendations*

On March 29, 2012, the House of Representatives approved H. Con. Res. 112, the budget resolution for fiscal year 2013. Pursuant to section 201(b)(6) of the budget resolution, the Committee on Ways and Means was directed to submit to the Committee on the Budget recommendations for changes in law within the jurisdiction of the Committee on Ways and Means sufficient to reduce the deficit by \$1,200,000,000 for the period of fiscal years 2012 and 2013; by \$23,000,000,000 for the period of fiscal years 2012 through 2017; and by \$53,000,000,000 for the period of fiscal years 2012 through 2022. On April 18, 2012, in fulfillment of its instructions under the budget resolution, the Committee on Ways and Means marked up three budget reconciliation legislative recommendations and ordered those recommendations favorably transmitted to the Committee on the Budget. Two of these recommendations were tax provisions and are described below; for a description of the other recommendation, see Part I-D. On May 9, 2012, the House Budget Committee reported an original measure, the “Sequester Replacement Reconciliation Act of 2012” (H.R. 5652; H. Rept. 112-470), which contained the three budget reconciliation legislative

recommendations that had been favorably transmitted by the Committee on Ways and Means. On May 10, 2012, the House passed H.R. 5652 by a vote of 218-199, with one Member voting "Present." As of May 31, 2012, the Senate had not taken up the legislation.

1. *Recapture of Overpayments Resulting From Certain Federally-Subsidized Health Insurance*

On April 18, 2012, in partial fulfillment of its instructions under the budget resolution, the Committee on Ways and Means marked up and ordered favorably transmitted to the Committee on the Budget a recommendation relating to the recapture of overpayments resulting from certain Federally-subsidized health insurance. This recommendation was ordered favorably transmitted without amendment by a voice vote. It was subsequently included as subtitle A of title VI of H.R. 5652, as passed by the House on May 10, 2012.

The legislative recommendation favorably transmitted by the Committee would require overpayments of certain Federally-subsidized insurance premium tax credits to be entirely repaid. The Patient Protection and Affordable Care Act of 2010 ("PPACA," Pub. L. No. 111-148) and the Health Care and Education Reconciliation Act ("HCERA," Pub. L. No. 111-152) provided for refundable tax credits for certain Federally-subsidized health insurance policies and capped the amount of credit overpayments that can be recouped. The Committee's recommendation would repeal section 36B(f)(2)(B) of the Internal Revenue Code of 1986, as added by PPACA and subsequently amended by Pub. L. No. 111-309 and Pub. L. No. 112-9, thereby requiring full repayment of such overpayments.

2. *Social Security Number Required To Claim Refundable Tax Credit*

On April 18, 2012, in partial fulfillment of its instructions under the budget resolution, the Committee on Ways and Means marked up and ordered favorably transmitted to the Committee on the Budget a recommendation relating to Social Security Number requirements for the refundable portion of the child tax credit. This recommendation was ordered favorably transmitted without an amendment by a vote of 22-12. It was subsequently included as subtitle B of title VI of H.R. 5652, as passed by the House on May 10, 2012.

The legislative recommendation favorably transmitted by the Committee – based on legislation (H.R. 1956) introduced by Representative Sam Johnson – would require individuals (or at least one spouse in the case of a joint return) to include their Social Security Number (SSN) on their tax return in order to claim the refundable portion of the child tax credit (sometimes referred to as the additional child tax credit (ACTC)). The recommendation would also provide the IRS "math error authority" if a taxpayer fails to meet this requirement, permitting the IRS to refuse to pay out the ACTC for returns without an SSN, instead of making the payment and later seeking to recoup it.

*r. Restoring Access to Medication Act (H.R. 5842)*

On May 18, 2012, Representative Lynn Jenkins – along with Representative Erik Paulsen and Representative David G. Reichert – introduced H.R. 5842, the "Restoring Access to Medication Act." On May 31, 2012, the Committee marked up the bill and ordered it favorably reported, as amended, by a vote of 24-9.

As ordered reported by the Committee, H.R. 5842 would repeal the restrictions, which began in 2011, on the purchase of over-the-counter medications through flexible spending arrangements (FSAs), health reimbursement arrangements (HRAs), health savings accounts (HSAs), and Archer medical savings accounts (Archer MSAs) imposed by the Patient Protection and Affordable Care Act ("PPACA") (P.L. 111-148).

*s. To amend the Internal Revenue Code of 1986 to improve health savings accounts, and for other purposes (H.R. 5858)*

On May 29, 2012, Representative Wally Herger – along with Representative Diane Black – introduced H.R. 5858, a bill to amend the Internal Revenue Code of 1986 to improve health savings accounts (HSAs), and for other purposes. On May 31, 2012, the Committee marked up the bill and ordered it favorably reported, as amended, by a vote of 21-7.

As ordered reported by the Committee, H.R. 5858 would (1) expand the “saver’s credit” to cover contributions to HSAs, including both direct contributions by taxpayers and salary reductions through employer-sponsored cafeteria plans; (2) treat HSAs opened within 60 days after the establishment of the high-deductible health plan (HDHP) as having been opened on the same day as the HDHP; (3) eliminate the marriage penalty in HSA catch-up contributions; (4) allow veterans who have service-connected disabilities to continue to make HSA contributions even if they have received VA care during the preceding three months; and (5) permit tax-free distributions from HSAs to be used for early-retiree health coverage (including surviving spouses) provided by a former employer, but only if the beneficiary is aged 55-64.

### 3. OTHER TAX MATTERS (JANUARY 5, 2011 TO MAY 31, 2012)

#### *a. Tax Reform Hearings (Full Committee)*

On January 20, 2011, the Committee received testimony on the economic and administrative burdens imposed by the current structure of the Federal income tax from (i) Nina E. Olson, National Taxpayer Advocate, Internal Revenue Service; (ii) Robert A. McDonald, Chairman of the Board, President, and Chief Executive Officer, The Procter & Gamble Company, and Chairman, Fiscal Policy Initiative of the Business Roundtable; (iii) Warren S. Hudak, President, Hudak & Company, LLC; (iv) Kevin A. Hassett, Ph.D., Senior Fellow & Director of Economic Policy Studies, American Enterprise Institute; and (v) Martin A. Sullivan, Ph.D., Contributing Editor, Tax Analysts.

On April 13, 2011, the Committee received testimony on how the Internal Revenue Code’s burdens on individuals and families demonstrate the need for comprehensive tax reform from (i) Alan Viard, Resident Scholar, American Enterprise Institute; (ii) Annette Nellen, CPA, Director, Masters of Science in Taxation Program, San Jose State University; (iii) Mark E. Johannessen, CFP, Managing Director, Harris SBSB; and (iv) Neil H. Buchanan, Associate Professor of Law, The George Washington University.

On May 12, 2011, the Committee received testimony on the need for comprehensive tax reform to help American companies compete in the global market and create jobs for American workers from (i) Greg Hayes, Senior Vice President and Chief Financial Officer, United Technologies Corporation; (ii) Edward J. Rapp, Group President & Chief Financial Officer, Caterpillar Inc.; (iii) James T. Crines, Executive Vice President, Finance, and Chief Financial Officer, Zimmer Holdings, Inc.; (iv) Mark A. Buthman, Senior Vice President and Chief Financial Officer, Kimberly-Clark Corporation; (v) James R. Hines, Jr., L. Hart Wright Collegiate Professor of Law, University of Michigan Law School; (vi) Dirk J.J. Suringa, Partner, Covington & Burling LLP; and (vii) Jane Gravelle, Senior Specialist in Economic Policy, Congressional Research Service.

On May 24, 2011, the Committee received testimony on how other countries have used tax reform to help their companies compete in the global market and create jobs from (i) Gary M. Thomas, Partner, White & Case; (ii) Frank Schoon, Partner, Dutch Desk, International Tax Services, Ernst & Young; (iii) Steve Edge, Partner, Slaughter and May; (iv)

Jörg Menger, Partner, German Desk, International Tax Services, Ernst & Young; and (v) Reuven S. Avi-Yonah, Irwin I. Cohn Professor of Law, University of Michigan Law School.

On June 2, 2011, the Committee received testimony on the potential benefits to companies and workers of lowering marginal tax rates on business income, and the trade-offs that such companies might be willing to make given current fiscal constraints. The hearing also examined major elements of business and corporate taxation in anticipation of future efforts to evaluate policy options that might encourage job creation in the United States. Testimony was received from (i) Ashby T. Corum, Partner, KPMG LLP; (ii) Walter J. Galvin, Vice Chairman of the Board, Emerson Electric Co.; (iii) Judy L. Brown, Executive Vice President & Chief Financial Officer, Perrigo Company; (iv) James H. Zrust, Vice President, Tax, The Boeing Company; (v) James Misplon, Vice President, Tax, Sears Holdings Management Corporation, testifying on behalf of the National Retail Federation; and (vi) Mark Stutman, National Managing Partner of Tax Services, Grant Thornton.

On July 13, 2011, the Committee, jointly with the Senate Committee on Finance, received testimony on the taxation of debt and equity and the broader economic implications of this treatment. At the hearing, JCT staff formally presented two reports on the taxation of debt financing relative to equity financing. These JCT staff reports were requested by Ways and Means Committee Chairman Camp and Senate Finance Committee Chairman Baucus at the organizational meeting of the Joint Committee on Taxation on March 15, 2011. Testimony was received from (i) Mr. Thomas A. Barthold, Chief of Staff, Joint Committee on Taxation; (ii) Dr. Mihir A. Desai, Mizuho Financial Group Professor of Finance, Harvard Business School; (iii) The Honorable Pamela F. Olson, Partner, Skadden, Arps, Slate, Meagher & Flom; (iv) Mr. Victor Fleischer, Associate Professor of Law, University of Colorado Law School; and (v) Dr. Simon Johnson, Ronald A. Kurtz Professor of Entrepreneurship, Massachusetts Institute of Technology Sloan School of Management.

On July 26, 2011, the Committee received testimony regarding two different consumption tax models. One panel discussed the policy arguments for and against adopting the FairTax as a replacement for existing federal taxes, and another panel examined the advantages and disadvantages of a value added tax (VAT), whether as a supplement to or full replacement for existing taxes. The hearing explored the economic impact of consumption tax systems, as well as issues surrounding administration and compliance. Testimony was received from (i) Mr. Mike Huckabee, former Governor of Arkansas; (ii) Dr. Laurence J. Kotlikoff, Professor of Economics, Boston University, Boston, Massachusetts; accompanied by Dr. David Tuerck, Executive Director, The Beacon Hill Institute, Professor and Chairman, Department of Economics, Suffolk University; (iii) Mr. Bruce Bartlett, Columnist, Tax Notes, The Fiscal Times, Contributor, The New York Times; (iv) Mr. Michael J. Graetz, Columbia Alumni Professor of Tax Law, Columbia University; (v) Dr. Rosanne Altshuler, Professor and Chair, Economics Department, Rutgers University; (vi) Dr. Robert J. Carroll, Principal, Ernst & Young LLP; (vii) Mr. Jim White, Director, Tax Issues, Government Accountability Office; (viii) Dr. Daniel J. Mitchell, Senior Fellow, Cato Institute; and (ix) Dr. Simon Johnson, Ronald A. Kurtz Professor of Entrepreneurship, Sloan School of Management, Massachusetts Institute of Technology.

On September 21, 2011, the Committee reviewed JCT's revenue estimating methodologies and its ability to analyze the impact on economic growth and job creation of comprehensive tax reform proposals. The Committee received testimony from (i) Mr. Thomas Barthold, Chief of Staff, Joint Committee on Taxation; (ii) Mr. Douglas Holtz-Eakin, President, American Action Forum; (iii) Mr. John Buckley, Visiting Professor, Georgetown University Law Center; and (iv) Mr. William Beach, Director, Center for Data Analysis, the Heritage Foundation.

On December 6, 2011, the Committee, jointly with the Senate Committee on Finance, received testimony on the complex relationship between the Internal Revenue Code and

financial products, focusing on the potentially inconsistent tax treatment of similar financial products and how the Internal Revenue Code has responded to an evolving financial products market. At the hearing, staff of the Joint Committee on Taxation (JCT) formally presented a report on the tax treatment of financial products. This JCT staff report was requested by Chairman Camp and Senate Finance Committee Chairman Baucus at the organizational meeting of the Joint Committee on Taxation on March 15, 2011. Testimony was received from (i) Mr. Thomas A. Barthold, Chief of Staff, Joint Committee On Taxation; (ii) Mr. Alex Raskolnikov, Charles Evans Gerber Professor of Law and Co-chair of the Charles E. Gerber Transactional Studies Program, Columbia Law School; (iii) Ms. Andrea S. Kramer, Partner, McDermott Will & Emery LLP; and (iv) Mr. David S. Miller, Partner, Cadwalader, Wickersham & Taft LLP.

On February 8, 2012, the Committee held a hearing on the interaction of tax and financial accounting on tax reform, focusing on whether tax legislation works as intended when Congress fails to account for the effects of financial accounting on corporate behavior. The Committee received testimony from (i) Mr. Michael D. Fryt, Corporate Vice President, Tax, FedEx Corporation; (ii) Mr. Mark A. Schichtel, Senior Vice President & Chief Tax Officer, Time Warner Cable; (iii) Ms. Michelle Hanlon, Associate Professor of Accounting, MIT Sloan School of Management; (iv) Mr. Tom S. Neubig, National Director, Quantitative Economics and Statistics, Ernst & Young LLP; and (v) Mr. Timothy S. Heenan, Vice President, Treasury & Tax, Praxair, Inc.

On March 7, 2012, the Committee held a hearing on the tax treatment of closely-held businesses in the context of tax reform. The Committee received testimony from (i) Mr. Mark Smetana, Chief Financial Officer, Eby-Brown Company; (ii) Mr. Dewey W. Martin, CPA, testifying on the behalf of the National Federation of Independent Businesses; (iii) Mr. Stefan F. Tucker, Partner, Venable, LLP; (iv) Mr. Jeffrey L. Kwall, Kathleen and Bernard Beazley Professor of Law, Loyola University School of Law; (v) Mr. Tom Nichols, Meissner Tierney Fisher & Nichols S.C.; and (vi) Mr. Martin A. Sullivan, Contributing Editor, Tax Analysts.

On April 17, 2012, the Committee held a hearing on tax reform and tax-favored retirement accounts. The hearing examined whether, as part of comprehensive tax reform, various reform options could achieve the three goals of simplification, efficiency, and increasing retirement and financial security for American families. The Committee received testimony from (i) Dr. Jack VanDerhei, Research Director, Employee Benefit Research Institute; (ii) Ms. Judy A. Miller, Chief of Actuarial Issues and Director of Retirement Policy, American Society of Pension Professionals and Actuaries; (iii) Mr. William Sweetnam, Principal, Groom Law Group; (iv) Mr. David John, Senior Research Fellow in Retirement Security and Financial Institutions, The Heritage Foundation; and (v) Mr. Randy H. Hardock, Partner, Davis & Harman LLP, testifying on behalf of the American Benefits Council.

*b. Hearings Held by the Subcommittee on Select Revenue Measures*

On March 3, 2011, the Subcommittee received testimony on the special burdens that the Internal Revenue Code imposes on small businesses and pass-through entities and the need for comprehensive tax reform to address these problems from (i) Dr. Robert Carroll, Principal, Qualitative Economics and Statistics, Ernst & Young LLP; (ii) Ms. Patricia A. Thompson, Chair, Tax Executive Committee, American Institute of Certified Public Accountants, Piccerelli, Gilstein & Co. LLP; (iii) Mr. Dennis Tarnay, Chief Financial Officer, Lake Erie Electric, Inc.; and (iv) Dr. Donald B. Marron, Director, Tax Policy Center, The Urban Institute.

On March 16, 2011, the Subcommittee received testimony on tax policy issues raised by H.R. 3, as ordered reported by the House Judiciary Committee on March 3, 2011,

and by H.R. 358, as ordered reported by the House Energy and Commerce Subcommittee on Health on February 11, 2011, from Thomas A. Barthold, Chief of Staff, Joint Committee on Taxation.

On June 23, 2011, the Subcommittee received testimony on tax reform and foreign investment in the United States from (i) Ms. Nancy L. McLernon, President and Chief Executive Officer, Organization for International Investment; (ii) Mr. Alexander Spitzer, Vice President – Taxes, Nestle Holdings, Inc.; (iii) Mr. Claude Drailard, Chief Financial Officer, Dassault Falcon Jet Corporation; (iv) Mr. Jeffrey DeBoer, President and Chief Executive Officer, The Real Estate Roundtable; (v) Mr. Gary Hufbauer, Reginald Jones Senior Fellow, Peterson Institute for International Economics; (vi) Mr. Robert Stricof, Partner, Deloitte Tax LLP; and (vii) Mr. Bret Wells, Assistant Professor of Law, University of Houston Law Center.

On September 22, 2011, the Subcommittee, along with Ways and Means Subcommittee on Oversight, received testimony on the intersection of energy policy and tax policy, with a focus on the dual priorities of comprehensive tax reform and a sustainable energy policy that addresses our economic, security, and environmental needs from (i) The Honorable J. Russell George, Inspector General, Treasury Inspector General for Tax Administration; (ii) Mr. Richard E. Byrd, Jr., Commissioner, Wage and Investment Division, Internal Revenue Service; (iii) Dr. Donald B. Marron, Director, Tax Policy Center, The Urban Institute, (iv) Mr. Kevin Book, Managing Director, Research, Clearview Energy Partners, LLC; (v) Mr. Neil Z. Auerbach, Founder and Managing Partner, Hudson Clean Energy Partners, L.P.; (vi) Mr. Will Coleman, Partner, Mohr Davidow Ventures; (v) Mr. Tim Greeff, Political Director, Clean Economy Network; (vi) Mr. Andrew J. Littlefair, President and Chief Executive Officer, Clean Energy Fuels; (vii) Dr. Lawrence B. Lindsey, President and Chief Executive Officer, The Lindsey Group; (viii) The Honorable Calvin Dooley, President and Chief Executive Officer, American Chemistry Council; (ix) Dr. David W. Kreutzer, Research Fellow in Energy Economics and Climate Change, The Heritage Foundation; and (x) Mr. Hank Ziomek, Director of Sales, Titeflex Corporation.

On November 17, 2011, the Subcommittee held a hearing focusing on the Ways and Means international tax reform discussion draft released on October 26, 2011. The Subcommittee received testimony from (i) Mr. John L. Harrington, Partner, SNR Denton; (ii) Mr. Tim Tuerff, Partner, Deloitte Tax LLP; (iii) Mr. David G. Noren, Partner, McDermott, Will & Emery; (iv) Mr. Paul W. Oosterhuis, Partner, Skadden, Arps, Slate, Meagher & Flom LLP & Affiliates; and (v) Dr. Martin A. Sullivan, Contributing Editor, Tax Analysts.

On February 1, 2012, the Subcommittee, along with the Subcommittee on Oversight, received testimony on harbor maintenance funding and maritime tax issues. The hearing examined the structure of the Harbor Maintenance Trust Fund and the Harbor Maintenance Tax, and considered whether U.S. anti-deferral rules inhibit the expansion of the U.S. shipping industry. Testimony was received from (i) The Honorable Michael Strain, Commissioner, Louisiana Department of Agriculture & Forestry; (ii) Mr. Gary LaGrange, President and Chief Executive Officer, Port of New Orleans; (iii) Mr. Steven A. Fisher, Executive Director, American Great Lakes Ports Association; (iv) Mr. Morten Arntzen, President and Chief Executive Officer, Overseas Shipholding Group; (v) Mr. James C. McCurry, Jr., Director of Administration, Georgia Ports Authority; and (vi) Mr. Michael Leone, Port Director, Massachusetts Port Authority.

On April 26, 2012, the Subcommittee held a hearing on certain expiring tax provisions. The hearing provided Members of Congress the opportunity to testify on behalf of specific tax proposals they have introduced or cosponsored in the 112th Congress related to the extension, modification, or termination of one or more tax

extenders. Testimony was received from (i) Representative Charles F. Bass; (ii) Representative Brian Bilbray; (iii) Representative Diane Black; (iv) Representative Kevin Brady; (v) Representative Bruce L. Braley; (vi) Representative John Campbell; (vii) Representative Donna M. Christensen; (viii) Representative Jim Costa; (ix) Representative Geoff Davis; (x) Representative Theodore E. Deutch; (xi) Representative John Garamendi; (xii) Representative Michael G. Grimm; (xiii) Representative Wally Herger; (xiv) Representative Jaime Herrera Beutler; (xv) Representative Lynn Jenkins; (xvi) Representative Steve King; (xvii) Representative Tom Latham; (xviii) Representative Jim McDermott; (xix) Representative James P. McGovern; (xx) Representative Pedro R. Pierluisi; (xxi) Representative Mike Pompeo; (xxii) Representative Tom Reed; (xxiii) Representative David G. Reichert; (xxiv) Representative Aaron Schock; (xxv) Representative Peter Welch.

## B. LEGISLATIVE REVIEW OF TRADE ISSUES

### 1. BILLS ENACTED INTO LAW DURING THE 112<sup>TH</sup> CONGRESS THROUGH MAY 31, 2012

#### a. *United States-Colombia Trade Promotion Agreement Implementation Act (P.L. 112-42)*

On July 7, 2011, the Committee held an informal mark-up to consider a draft bill to implement the United States-Colombia Trade Promotion Agreement and accompanying Statement of Administrative Action (SAA) and favorably reported them by a vote of 22 – 14, after agreeing to an amendment in the nature of a substitute offered by Chairman Camp. On October 3, 2011, House Majority Leader Eric Cantor, introduced, for himself and Representative Sam Farr (both by request), H.R. 3078, the “*United States-Colombia Trade Promotion Agreement Implementation Act*,” which included an extension of the Andean Trade Preference Act. On October 6, 2011, the Committee held a formal mark-up session to consider H.R. 3078 and the SAA. The Committee approved the bill and favorably reported H.R. 3078 and the SAA, without amendment, by a recorded vote of 24 – 12 (H. Rept. 112-237). On October 12, 2011, the House passed the bill by a recorded vote of 262 – 167. Also on October 12, 2011, the Senate passed the bill by a recorded vote of 66 – 33. The President signed H.R. 3078 into law on October 21, 2011. On May 15, 2012, the U.S.-Colombia Trade Promotion Agreement entered into force.

#### b. *United States-Panama Trade Promotion Agreement Implementation Act (P.L. 112-43)*

On July 7, 2011, the Committee met informally to consider a draft bill to implement the United States-Panama Trade Promotion Agreement and accompanying Statement of Administrative Action (SAA) and favorably reported them by a vote of 22 – 15, after agreeing to an amendment in the nature of a substitute offered by Chairman Camp. On October 3, 2011, House Majority Leader Eric Cantor introduced, for himself and Representative Jim McDermott (both by request), H.R. 3079, the “*United States-Panama Trade Promotion Agreement Implementation Act*.” On October 6, 2011, the Committee held a formal mark-up session to consider H.R. 3079 and the SAA. The Committee approved the bill and favorably reported H.R. 3079 and the SAA, without amendment, by a recorded vote of 32 – 3 (H. Rept. 112-238). On October 12, 2011, the House passed the bill by a recorded vote of 300 – 129. Also on October 12, 2011, the Senate passed the bill by a recorded vote of 77 – 22. The President signed H.R. 3079 into law on October 21, 2011. The Committee continues to work with USTR and the Panamanian government to ensure prompt implementation of the Agreement.

#### c. *United States-Korea Free Trade Agreement Implementation Act (P.L. 112-41)*

On July 7, 2011, the Committee met informally to consider draft legislation to implement the United States-Korea Free Trade Agreement and accompanying statement of Administrative Action (SAA) and favorably reported them by a vote of 22 - 15 after agreeing to an amendment in the nature of a substitute offered by Chairman Camp. On October 3, 2011, House Majority Leader Eric Cantor introduced, for himself and Representative Sander Levin (both by request), H.R. 3080, the "*United States-Korea Free Trade Agreement Implementation Act.*" On October 6, 2011, the Committee held a formal mark-up session to consider H.R. 3080 and SAA. The Committee approved the bill and favorably reported H.R. 3080 and the SAA, without amendment, by a recorded vote of 31 - 5 (H. Rept. 112-239). On October 12, 2011, the House passed the bill by a recorded vote of 278 - 151. Also on October 12, 2011, the Senate passed the bill by a recorded vote of 83 - 15. The President signed H.R. 3080 into law on October 21, 2011. On February 21, 2012, USTR Kirk sent the Committee a letter stating the Administration's intent to enter the U.S.-Korea FTA into force on March 15, 2012, and stating the Administration's commitment to address certain outstanding issues. The Agreement subsequently entered into force on March 15, 2012.

*d. To extend the Generalized System of Preferences and for other purposes (P.L. 112-40)*

On August 2, 2011, Chairman Dave Camp introduced, for himself and Ranking Member Levin, Chairman Brady and Ranking Member McDermott, H.R. 2832, "*To extend the Generalized System of Preferences, and for other purposes,*" which included a reauthorization of the Generalized System of Preferences. On August 7, 2011, the House passed H.R. 2832 under suspension of the rules by voice vote. On August 21, 2011, the Senate passed an amended version of H.R. 2832, including the Trade Adjustment Assistance Extension Act of 2011, by a vote of 70 - 27. On October 12, 2011, the House agreed to the Senate amendment by recorded vote 307 - 122. On October 21, 2011, the President signed H.R. 2832, as amended, into law.

*e. Burma Sanctions Renewal (P.L. 112-36)*

On May 26, 2011, Representative Joe Crowley introduced H.J. Res. 66, "*Approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.*" On July 20, 2011, the House passed the joint resolution, under suspension of the rules, by voice vote. On September 15, 2011, the Senate passed the joint resolution, with an amendment, by unanimous consent. There was no further action on H.J. Res. 66. The text of H.J. Res 66 was included in H.R. 2608, "*Continuing Appropriations Act, 2012.*" On September 21, the House failed to pass H.R. 2608 by a recorded vote of 195-230. On September 23 (legislative day, September 22), 2011, the House again voted on H.R. 2608 and passed the bill, by a recorded vote of 219-203. On September 26, 2011, the Senate passed H.R. 2608, with an amendment, by a recorded vote of 79-12. On September 30, 2011, the House passed H.R. 2017, "*Continuing Appropriations Act, 2012,*" which included the text of H.J. Res. 66. The President signed H.R. 2017 into law on September 30. On October 4, 2011, the House passed H.R. 2608, as amended by the Senate, by a recorded vote of 352-66. The President signed H.R. 2608 into law on October 4, 2011. On May 28, 2012, Representative Joe Crowley introduced H.J. Res 109 to renew sanctions against Burma under the Burmese Freedom and Democracy Act of 2003, amended by the Tom Lantos Block Burmese JADE (Junta's Anti-Democratic Efforts) Act of 2008. The existing statutory sanctions on Burma will expire on July 27, 2012.

*f. Ultralight Aircraft Smuggling Prevention Act of 2012 (P.L. 112-93)*

On January 23, 2012, Representative Gabrielle Giffords and Representative Jeff Flake

introduced H.R. 3801, *“the Ultralight Aircraft Smuggling Prevention Act of 2012.”* On January 25, 2012, House passed the bill under suspension of the rules by a vote of 408-0. The Senate passed the bill without amendment by unanimous consent on January 26, 2012. The President signed the bill into law on February 10, 2012.

H.R. 3801 amended the Tariff Act of 1930 with respect to aviation smuggling to extend its already existing criminal penalties to the use of ultralight planes in aviation smuggling. On January 25, 2012, Chairman Camp exchanged letters with Chairman Howard McKeon of the Committee on Armed Services waiving claims for jurisdiction on this bill but not jurisdictional claims over the subject matter in the future.

*g. To apply the countervailing duty provisions of the Tariff Act of 1930 to nonmarket economy countries, and for other purposes (P.L. 112-99).*

On February 29, 2012, Chairman Dave Camp, Ranking Member Levin and 128 cosponsors introduced H.R. 4105, *“To apply the countervailing duty provisions of the Tariff Act of 1930 to nonmarket economy countries, and for other purposes.”* On March 6, 2012, the House passed the bill under suspension of the rules by a vote of 370-39. The Senate passed the bill by unanimous consent on March 7, 2012, and the President signed the bill into law on March 13, 2012.

H.R. 4105 amended the Tariff Act of 1930 to provide the Department of Commerce the authority to impose countervailing duties on imports into the United States from a nonmarket economy country subsidizing, directly or indirectly, the manufacture, production, or export of merchandise that materially injures, or threatens material injury, to a U.S. industry. In cases in which the Commerce Department applies both an antidumping and countervailing duty with respect to a product from a nonmarket economy country, the bill also requires the Department to reduce the antidumping duty by the amount of the estimated increase in the dumping margin as the result of a countervailed subsidy to the extent that such increase can be reasonably estimated.

*h. Border Tunnel Prevention Act of 2012 (P.L. 112-127)*

On March 1, 2012, Representative Silvestre Reyes introduced H.R. 4119, the *“Border Tunnel Prevention Act of 2012”* to provide for penalties for use, attempt to construct, or financing of construction of an unauthorized tunnel that crosses the international border between the United States and another country. On May 15, 2012, Chairman Camp exchanged letters with Chairman Lamar Smith of the Judiciary Committee reflecting the agreement of the Committees to strip the provisions in the bill that were in the jurisdiction of the Committee on Ways and Means, relating to civil asset forfeiture. That same day, the House passed the bill under suspension of the rules by a vote of 416-4. The Senate passed the bill on May 17, 2012, without amendment, by unanimous consent, and the President signed the bill into law on June 5, 2012.

## 2. IMPLEMENTATION OF TRADE AGREEMENTS WITH COLOMBIA, PANAMA, AND SOUTH KOREA

In preparation for legislative action to implement the trade agreements with Colombia, Panama, and South Korea, the Committee held a hearing on January 25, 2011, on Congressional consideration of these trade agreements and the benefits that they will bring to American businesses, farmers, workers, consumers, and the U.S. economy. The hearing also explored developments with each of these countries that have occurred since the trade agreements were signed in 2006 and 2007. The Committee received testimony from

(i) Roy Paulson, President, Paulson Manufacturing Corporation, on behalf of the National Association of Manufacturers; (ii) Bob Stallman, President, American Farm Bureau Federation; (iii) Michael L. Ducker, Chief Operating Officer and President, International, FedEx Express; (iv) William J. Toppeta, President, International, MetLife; (v) Stephen E. Biegun, Corporate Officer and Vice President of International Governmental Affairs, Ford Motor Company.

On January 27, 2011, Chairman Camp requested that the International Trade Commission (ITC) conduct a study assessing the supplemental autos agreement reached by USTR with South Korea. The ITC released that report publicly on April 7, 2011.

On February 9, 2011, the Committee held a hearing on current trade issues, including the trade agreements with Colombia, Panama, and South Korea. Ambassador Kirk testified before the Committee.

On March 17, 2011, the Subcommittee on Trade held a hearing focusing on Congressional consideration of the trade agreement with Colombia. The hearing addressed the economic benefits this agreement will bring to American businesses, farmers, workers, consumers, and the U.S. economy. In addition, the hearing examined the national security and geopolitical implications of the agreement and explored developments within Colombia that have occurred since the trade agreement was concluded. The Subcommittee received testimony from (i) Ambassador Miriam Sapiro, Deputy U.S. Trade Representative, Office of the United States Trade Representative; (ii) The Honorable Robert D. Hormats, Under Secretary for Economic, Energy & Agricultural Affairs, U.S. Department of State; (iii) The Honorable Thomas C. Dorr, President & Chief Executive Officer, U.S. Grains Council, and Former Under Secretary for Rural Development, U.S. Department of Agriculture; (iv) William D. Marsh, Vice President Legal, Western Hemisphere, Baker Hughes, Inc. on behalf of Baker Hughes, Inc. and the National Association of Manufacturers; (v) Ambassador Peter F. Romero President and Chief Executive Officer, Experior Advisory LLC, Former Assistant Secretary for Western Hemisphere Affairs, U.S. Department of State, and Former U.S. Ambassador to Ecuador; (vi) Adam Isaacson, Director, Regional Security Policy Program, Washington Office on Latin America; (vii) General Barry R. McCaffrey, USA (Retired), President, BR McCaffrey Associates, LLC, Former Director of the Office of National Drug Control Policy, and Former Commander of the U.S. Southern Command.

On March 30, 2011, the Subcommittee on Trade held a hearing focusing on Congressional consideration of the trade agreement with Panama. The hearing addressed the economic benefits this agreement will bring to American businesses, farmers, workers, consumers, and the U.S. economy. In addition, the hearing examined the national security and geopolitical implications of the agreement, as well as action taken by Panama to address tax transparency. The Subcommittee received testimony from (i) Ambassador Miriam Sapiro, Deputy U.S. Trade Representative, Office of the United States Trade Representative; (ii) Doug Oberhelman, Chairman and Chief Executive Officer, Caterpillar Inc. on behalf of Caterpillar Inc., the U.S. Chamber of Commerce, the National Association of Manufacturers, the Business Roundtable, and the Latin America Trade Coalition; (iii) Gary LaGrange, President and Chief Executive Officer, Port of New Orleans; (iv) Doug Wolf, President, National Pork Producers Council; (v) Jasper Sanfilippo, President and Chief Operating Officer, John B. Sanfilippo & Son, Inc.; (vi) Hal S. Shapiro, Partner, Akin Gump Strauss Hauer & Feld LLP, testifying in an individual capacity.

On April 7, 2011, the Subcommittee on Trade held a hearing focusing on Congressional consideration of the trade agreement with South Korea. The hearing addressed the economic benefits this agreement will bring to American businesses, farmers, workers, consumers, and the U.S. economy. In addition, the hearing examined the national security and geopolitical implications of the agreement and developments that have occurred since the trade agreement was concluded, particularly the supplemental

agreement reached between the United States and South Korea relating to trade in autos. The Subcommittee received testimony from (i) Ambassador Demetrios Marantis, Deputy U.S. Trade Representative, Office of the United States Trade Representative; (ii) William Rhodes, Chairman, U.S.-Korea Business Council; President and Chief Executive Officer, William R. Rhodes Global Advisors, LLC; Senior Advisor to Citigroup, on behalf of the U.S.-Korea Business Council and the U.S.-Korea FTA Business Coalition; (iii) John A. Schoch, Jr., President and Chief Executive Officer, Profile Products LLC, on behalf of the United States Chamber of Commerce; (iv) Robert Holleyman, President and Chief Executive Officer, Business Software Alliance; (v) Ambassador Thomas Hubbard, Senior Director for Asia, McLarty Associates and Former Ambassador to South Korea.

On April 18, 2011, Chairman Camp led a bipartisan delegation of Members to Bogota, Colombia, to assess the benefits of the trade agreement with Colombia as well as progress made by Colombia to address its labor law and conditions, as well as protection against, and prosecution of, labor violence.

On July 7, 2011, the Committee on Ways and Means considered, in an informal mark-up session, draft legislation to implement the trade agreements with Colombia, Panama, and South Korea and draft statements of administration action. The Committee conducted this informal markup to provide advice to the Administration on the implementing bills and statements of administrative action. The Committee approved draft legislation to implement the trade agreement with Colombia by a vote of 22 - 14, after agreeing to an amendment in the nature of a substitute offered by Chairman Camp. The Committee approved draft legislation to implement the trade agreement with Panama by a vote of 22 - 15, after agreeing to an amendment in the nature of a substitute offered by Chairman Camp. The Committee approved draft legislation to implement the trade agreement with South Korea by a vote of 22 - 15, after agreeing to an amendment in the nature of a substitute offered by Chairman Camp.

On October 3, 2011, House Majority Leader Eric Cantor introduced, for himself and Representative Sam Farr (both by request), H.R. 3078, the "*United States-Colombia Trade Promotion Agreement Implementation Act*"; House Majority Leader Eric Cantor introduced for himself and Representative Jim McDermott (both by request), H.R. 3079, the "*United States-Panama Trade Promotion Agreement Implementation Act*"; and House Majority Leader Eric Cantor introduced, for himself and Representative Sander Levin (both by request), H.R. 3080, the "*United States-Korea Free Trade Promotion Agreement Implementation Act*."

On October 6, 2011, the Committee held a formal mark-up session to consider H.R. 3078, H.R. 3079, and H.R. 3080. The Committee ordered H.R. 3078 favorably reported, without amendment, by a recorded vote of 24 - 12. The Committee ordered H.R. 3079 favorably reported, without amendment, by a recorded vote of 32 - 3. The Committee ordered H.R. 3080 favorably reported, without amendment, by a recorded vote of 31 - 5.

On October 12, 2011, considering all three bills under a closed rule that allowed for no amendments, the House passed H.R. 3078 by a recorded vote of 262 - 167, H.R. 3079 by a recorded vote of 300 - 129, and H.R. 3080 by a recorded vote of 278 - 151.

Also on October 12, 2011, the Senate passed H.R. 3078 by a recorded vote of 66 - 33, H.R. 3079 by a recorded vote of 77 - 22, and H.R. 3080 by a recorded vote of 83 - 15.

The President signed H.R. 3078, H.R. 3079, and H.R. 3080 into law on October 21, 2011.

On February 21, 2012, USTR Kirk sent the Committee a letter stating the Administration's intent to enter the U.S.-Korea FTA into force on March 15, 2012, and stating the Administration's commitment to address certain outstanding issues. The Agreement subsequently entered into force on March 15, 2012.

On February 29, 2012, the Committee held a hearing on current trade issues, including on the status of implementation of the U.S.-Colombia Trade Promotion Agreement, U.S.-Panama Trade Promotion Agreement, and U.S.-Korea Free Trade Agreement.

On May 15, 2012, the U.S.-Colombia Trade Promotion Agreement entered into force.

The Committee continues to work with USTR and the Panamanian government to ensure prompt implementation of the Agreement.

### 3. ANDEAN TRADE PREFERENCE ACT

On February 10, 2011, Chairman Camp introduced H.R. 622, "*To extend the Andean Trade Preference Act, and for other purposes,*" which included an extension of the Andean Trade Preferences Act (ATPA). ATPA expired on February 12, 2011. No further action was taken on H.R. 622.

On October 3, 2011, House Majority Leader Eric Cantor introduced, for himself and Representative Sam Farr (both by request), H.R. 3078, the "*United States-Colombia Trade Promotion Agreement Implementation Act,*" which included an extension of ATPA through July 31, 2013, retroactive to February 13, 2011. On October 6, 2011, the Committee held a formal mark-up session to consider H.R. 3078. The Committee ordered H.R. 3078 favorably reported, without amendment, by a recorded vote of 24 – 12.

On October 12, 2011, considering the bill under a closed rule that allowed for no amendments, the House passed H.R. 3078 by a recorded vote of 262 – 167. Also on October 12, 2011, the Senate passed H.R. 3078 by a recorded vote of 66 – 33. The President signed H.R. 3078 into law on October 21, 2011.

### 4. GENERALIZED SYSTEM OF PREFERENCES

On August 2, 2011, Chairman Dave Camp introduced, for himself and Ranking Member Levin, Chairman Brady and Ranking Member McDermott, H.R. 2832, "*To extend the Generalized System of Preferences, and for other purposes,*" which included a reauthorization of the Generalized System of Preferences. On August 7, 2011, the House passed H.R. 2832 under suspension of the rules by voice vote. On August 21, 2011, the Senate passed an amended version of H.R. 2832 by a vote of 70 - 27. On October 12, 2011, the House agreed to the Senate amendment by recorded vote 307 – 122. On October 21, 2011, the President signed H.R. 2832 into law.

### 5. TRADE ADJUSTMENT ASSISTANCE EXTENSION ACT OF 2011

On August 2, 2011, Chairman Dave Camp introduced, for himself and Representatives Kevin Brady, Sander Levin, and Jim McDermott, H.R. 2832, "*To extend the Generalized System of Preferences, and for other purposes.*" On August 7, 2011, the House passed H.R. 2832 under suspension of the rules by voice vote. On August 21, 2011, the Senate passed an amended version of H.R. 2832, including the Trade Adjustment Assistance Extension Act of 2011, by a vote of 70 - 27. On October 12, 2011, the House agreed to the Senate amendment by recorded vote 307 – 122. On October 21, 2011, the President signed H.R. 2832 into law.

### 6. WORLD TRADE ORGANIZATION

On February 9, 2011, the Committee held a hearing on the U.S. trade agenda. Among the current trade issues covered were the prospect for trade expansion in

agriculture, industrial goods, and services through the Doha Round negotiations at the World Trade Organization (WTO) and the issues surrounding Russia's efforts to accede to the WTO. Ambassador Kirk testified before the Committee on the Administration's views on these issues.

On December 14-18, 2011, the Committee conducted a bipartisan staff delegation to the Eighth Ministerial Conference of the World Trade Organization in Geneva, Switzerland. The staffdel participated in the Ministerial Conference, including meetings with trade ministers from WTO member countries, U.S. officials, and business leaders.

On February 29, 2012, the Committee held a hearing on current trade issues, including Russia's accession to the WTO, WTO negotiations, and "post-Doha" issues such as an international services trade agreement, Information Technology Agreement (ITA) expansion, and a trade facilitation agreement.

On March 26-29, 2012, the Committee conducted a bipartisan staff delegation to Geneva, Switzerland, to participate in the Symposium on Exchange Rate Policies and Trade being hosted by the World Trade Organization (WTO) Working Group on Trade, Debt, and Finance and to meet with officials from other WTO member countries, WTO secretariat staff, and U.S. officials.

## 7. ENFORCEMENT

On February 9, 2011, the Committee held a hearing on the U.S. trade agenda. Among the current trade issues covered were the full range of issues impeding American companies from selling U.S. goods and services in China and distorting trade flows through unfair trade practices. In addition, the hearing addressed the management of trade disputes and other trade issues. Ambassador Kirk testified before the Committee on the Administration's views on these issues.

On February 29, 2012, the Committee held a hearing on current trade issues, including efforts by the Administration to address barriers to trade. Ambassador Kirk testified before the Committee on the Administration's views on these issues.

On February 29, 2012, Chairman Dave Camp, Ranking Member Levin and 128 cosponsors introduced H.R. 4105, *"to apply the countervailing duty provisions of the Tariff Act of 1930 to nonmarket economy countries, and for other purposes."* On March 6, 2012, the House passed the bill under suspension of the rules by a vote of 370-39. The Senate passed the bill by unanimous consent on March 7, 2012, and the President signed the bill into law on March 13, 2012 (P.L. 112-99).

## 8. THE TRANS-PACIFIC PARTNERSHIP NEGOTIATIONS

On February 9, 2011, the Committee held a hearing on the U.S. trade agenda. Among the current trade issues covered were the structure, content, and prospect for the ongoing Trans-Pacific Partnership negotiations. Ambassador Kirk testified before the Committee on the Administration's views on these issues.

On November 10-11, 2011, Ranking Member Levin, Trade Subcommittee Chairman Brady and Ranking Member McDermott attended the APEC Summit in Honolulu, Hawaii. The delegation met with numerous foreign trade ministers and private sector representatives to discuss the importance of increasing U.S. economic engagement in the Asia-Pacific region, the status of the TPP negotiations, and various bilateral issues.

On December 14, 2011, the Subcommittee held a hearing on the Trans-Pacific Partnership (TPP) negotiations. The Subcommittee received testimony from (i) Ambassador Demetrios Marantis, Deputy U.S. Trade Representative, Office of the United States Trade Representative; (ii) Devry S. Boughner, Director, International Business

Relations on behalf of Cargill, Inc. and the U.S. Business Coalition for TPP; (iii) Angela Marshall Hofmann, Vice President, Global Integrated Sourcing and Trade Wal-Mart Stores; and (iv) Michael Wessel, President, The Wessel Group. The hearing focused on the status and future of the ongoing TPP agreement negotiations as well as the potential benefits of the agreement for U.S. companies, workers, and farmers. The hearing also explored how the TPP agreement will be a “21st century agreement” by addressing barriers to trade beyond tariffs and increasing trade facilitation.

On February 29, 2012, the Committee held a hearing on current trade issues, including the status of the TPP negotiations, the potential benefits of a TPP agreement for the United States, and the prospect for Canada, Japan, and Mexico to join the TPP negotiations. Ambassador Kirk testified before the Committee on the Administration’s views on these issues.

## 9. OTHER BILATERAL AND REGIONAL ISSUES

### *China:*

On February 9, 2011, the Committee held a hearing on the U.S. trade agenda. Among the current trade issues covered was the full range of issues impeding American companies from selling U.S. goods and services in China and distorting trade flows through unfair trade practices. United States Trade Representative Ron Kirk testified. On May 6, 2011, Chairman Camp led a letter signed by a majority of Committee Members to Secretaries Geithner, Clinton, and Locke, and Ambassador Kirk discussing systemic problems in U.S.-China trade relations, including issues related to China’s consistent lack of protection and enforcement of U.S. intellectual property rights, indigenous innovation requirements, use of industrial subsidies, export restraints on key products such as rare earth minerals, and currency misalignment. In that letter, the Members asked the Administration to develop metrics for assessing China’s progress on these issues.

On May 10, 2011, Committee Members met with Vice Premier Wang Qishan to discuss the U.S.-China trade relationship.

On October 25, 2011, the Committee held a hearing focusing on the U.S.-China economic relationship, including both the significant opportunities presented by the Chinese market as well as the barriers that U.S. companies, farmers, and workers continue to face. The hearing explored the Administration’s plans to address China’s persistent barriers to trade and investment. The Committee received testimony from (i) Under Secretary Lael Brainard, Under Secretary of International Affairs, U.S. Department of Treasury; and (ii) Ambassador Demetrios Marantis, Deputy U.S. Trade Representative.

On November 17, 2011, all Members of the Committee sent a letter to Ambassador Kirk and Secretary Bryson highlighting the need to address longstanding and specific concerns, improve U.S. market access in China, use commercially meaningful metrics to measure the effectiveness of commitments, and further China’s rebalancing of its economy.

On January 31, 2012, Chairman Dave Camp and Senate Finance Committee Chairman Max Baucus sent a letter to the Administration encouraging it to pressure China to stop unfairly undervaluing its currency at a World Trade Organization (WTO) symposium in March. In the letter, Camp and Baucus noted that China has actively blocked currency undervaluation discussions at the WTO and emphasized that China’s unfair trade practices, including its currency undervaluation, cost U.S. jobs.

On February 29, 2012, the Committee held a hearing on current trade issues, including the challenges and opportunities presented by the U.S. economic relationship with China. Ambassador Kirk testified before the Committee on the Administration’s views on these issues.

On March 1, 2012, the Committee held a meeting with Treasury Secretary Geithner, Commerce Secretary Bryson, and United States Trade Representative Ambassador Kirk about the Administration's China economic policy. The meeting provided an opportunity for Committee Members to have a bipartisan and candid, off-the-record discussion with the Administration about its China economic policy.

On March 26-29, 2012, the Committee conducted a bipartisan staff delegation to Geneva, Switzerland, to participate in the Symposium on Exchange Rate Policies and Trade being hosted by the World Trade Organization (WTO) Working Group on Trade, Debt, and Finance and to meet with officials from other WTO member countries, WTO secretariat staff, and U.S. officials.

On April 27, 2012, Republican Members of the Ways and Means Committee sent a letter to the Administration concerning the meeting of the U.S.-China Strategic & Economic Dialogue (S&ED) to be held in early May. The letter highlighted key priorities for these meetings, including the need to address long-standing and specific concerns, improve U.S. market access in China, further China's rebalancing of its economy, and restart bilateral investment treaty negotiations.

The Committee has held regular staff consultations with USTR and the Treasury and Commerce Departments regarding U.S.-China issues.

#### *Russia:*

On February 9, 2011, the Committee held a hearing on current trade issues, including the issues surrounding Russia's efforts to accede to the WTO, in preparation for considering legislation, at the appropriate time, to graduate Russia from the Jackson-Vanik amendment and grant it Permanent Normal Trade Relations. Ambassador Kirk testified before the Committee on the Administration's views on this issue.

On October 31, 2011, Chairman Camp and Ranking Member Levin, along with Senators Baucus and Hatch, sent a letter to the Administration regarding Russia's accession to the WTO. The letter explained the importance for Russia's WTO accession agreement to adequately address a number of issues of concern.

On February 29, 2012, the Committee held a hearing on current trade issues, including the issues surrounding Russia's accession to the WTO and consideration of legislation to graduate Russia from the Jackson-Vanik amendment and grant it Permanent Normal Trade Relations. Ambassador Kirk testified before the Committee on the Administration's views on this issue.

#### *Burma:*

On May 26, 2011, Representative Joe Crowley introduced H.J. Res 66 to renew sanctions against Burma under the Burmese Freedom and Democracy Act of 2003, amended by the Tom Lantos Block Burmese JADE (Junta's Anti-Democratic Efforts) Act of 2008. On July 20, 2011, the House passed the joint resolution, under suspension of the rules, by voice vote. On September 15, 2011, the Senate passed the joint resolution, with an amendment, by unanimous consent. There was no further action on H.J. Res. 66. The text of H.J. Res 66 was included in H.R. 2608, "*Continuing Appropriations Act, 2012.*" On September 21, the House failed to pass H.R. 2608 by a recorded vote of 195-230. On September 23 (legislative day, September 22), 2011, the House again voted on H.R. 2608 and passed the bill, by a recorded vote of 219-203. On September 26, 2011, the Senate passed H.R. 2608, with an amendment, by a recorded vote of 79-12. On September 30, 2011, the House passed H.R. 2017, "*Continuing Appropriations Act, 2012,*" which included the text of H.J. Res. 66. The President signed H.R. 2017 into law on September 30. On October 4, 2011, the House passed H.R. 2608, as amended by the Senate, by a recorded vote of 352-66. The President signed H.R.

2608 into law on October 4, 2011. The sanctions on Burma were renewed effective July 26, 2011, by both H.R. 2607 and H.R. 2608.

On May 28, 2012, Representative Joe Crowley introduced H.J. Res 109 to renew sanctions against Burma under the Burmese Freedom and Democracy Act of 2003, amended by the Tom Lantos Block Burmese JADE (Junta's Anti-Democratic Efforts) Act of 2008. The existing statutory sanctions on Burma will expire on July 27, 2012.

*Iran:*

On May 13, 2011, Representative Ileana Ros-Lehtinen introduced H.R. 1905, the "*Iran Threat Reduction Act of 2011*." On June 3, 2011, Representative Ileana Ros-Lehtinen introduced H.R. 2105, the "*Iran, North Korea, and Syria Nonproliferation Reform and Modernization Act of 2011*." On November 2, 2011, the House Foreign Affairs Committee marked-up both H.R. 1905 and H.R. 2105, including making amendments, through the Chairman's amendments, to sections within Ways and Means's jurisdiction. After extensive negotiations, the House Foreign Affairs Committee agreed to amend both bills in sections within Ways and Means's jurisdiction to address the Committee's concerns.

On December 14, 2011, the House passed H.R. 2105, under suspension of the rules, by a vote of 418-2. Also on December 14, 2011, the House passed H.R. 1905, under suspension of the rules, by a vote of 410-11. On May 21, 2012, the Senate passed H.R. 1905, with amendments, by voice vote. No further action has been taken to date.

*Rwanda:*

On February 19, 2008, the United States and Rwanda signed the U.S. -Rwanda Bilateral Investment Treaty ("Treaty Between the Government of the United States of America and the Government of the Republic of Rwanda Concerning the Encouragement and Reciprocal Protection of Investment"). On September 26, 2011, the U.S. Senate passed the treaty by unanimous consent.

*Bolivia:*

On November 7, 2011, Chairman Camp sent a letter to Secretary Clinton and Ambassador Kirk expressing concern about the Administration's decision to conclude and sign a U.S.-Bolivia framework Agreement.

*Taiwan:*

On March 21, 2012, Chairman Camp and House Foreign Affairs Committee Chairman Ros-Lehtinen exchanged letters regarding H.R. 2918, the "*Taiwan Policy Act*," which contains provisions affecting the Committee's tax and trade jurisdiction. The Committee's concerns were addressed, and the Committee agreed to forego action in order to expedite floor consideration. At the time of this report, H.R. 2918 has not been considered by the full House.

## C. LEGISLATIVE REVIEW OF HEALTH ISSUES

### 1. BILLS ENACTED INTO LAW DURING THE 112<sup>TH</sup> CONGRESS (JANUARY 5, 2011 TO MAY 31, 2012)

*a. Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011 (P.L. 112-9)*

On January 12, 2011, House Administration Committee Chairman Dan Lungren and 245 cosponsors introduced H.R. 4, the "Small Business Paperwork Mandate Elimination Act of 2011." On February 17, 2011, the Committee marked up the bill and ordered it favorably

reported without amendment by voice vote, and the report (H. Rept. 112-15) was filed on February 22, 2011. At the request of Chairman Camp in a letter submitted to the Rules Committee on February 28, 2011, the text of H.R. 4 was subsequently replaced by the text of H.R. 705, the “Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011,” which the Committee had separately marked up and ordered reported, as amended, on February 17, 2011 (H. Rept. 112-16). For further information on H.R. 705, see section 2f. On March 3, 2011, the House passed H.R. 4, as amended (which incorporated the text of H.R. 705 as reported by the Ways and Means Committee), under a Rule by a vote of 314 – 112. On April 5, 2011, the Senate passed the bill without further amendment by a recorded vote of 87 – 12. On April 14, 2011, the President signed the bill into law.

As reported by the committee and subsequently enacted into law, H.R. 4 recovers a larger portion of premium subsidy overpayments resulting from the Patient Protection and Affordable Care Act of 2010 (“PPACA”) (P. L. 111-148) and the Health Care and Education Reconciliation Act of 2010 (P.L. 111-152). Prior to enactment of H.R. 4, individuals and joint filers earning between 200-250 percent of the Federal Poverty Level (FPL) were required to repay a maximum of \$500 and \$1,000, respectively, if income increased during the year such that they were no longer eligible for the amount initially determined. Under H.R. 4, these individuals and joint filers are required to repay a maximum of \$750 and \$1,500, respectively. Individuals and joint filers earning between 300-350 percent of the FPL were required to repay a maximum of \$1,000 and \$2,000, respectively. Under H.R. 4, these individuals and joint filers are required to repay a maximum of \$1,250 and \$2,500, respectively. Individuals and joint filers earning between 400-450 percent of the FPL were required to repay a maximum of \$1,500 and \$3,000, respectively. Under H.R. 4, these individuals and joint filers are required to repay the entire tax credit if their income increases to this level during the year in question. Individuals and joint filers earning between 450-500 percent of the FPL were required to repay a maximum of \$1,750 and \$3,500, respectively. Under H.R. 4, these individuals and joint filers are required to repay the entire tax credit if their income increases to this level during the year in question. Repayment amounts for individuals and joint filers earning below 200 percent, between 250-300 percent, and between 350-400 percent of the FPL were not modified by H.R. 4.

*b. Trade Adjustment Assistance Extension Act of 2011 (P.L. 112-40)*

On September 2, 2011, Chairman Camp, along with three cosponsors — Representative Kevin Brady, Ranking Member Sander Levin, and Representative Jim McDermott — introduced H.R. 2832 to extend the Generalized System of Preferences. The bill was considered in the House on September 7, 2011 under suspension of the rules. It passed by a voice vote later that same day. The bill was received in the Senate on September 8, 2011. The underlying language of H.R. 2832 was amended to include the Trade Adjustment and Assistance Act of 2011 on September 21, 2011. An extension of the Health Coverage Tax Credit (HCTC) was included in the TAA amendment. On September 22, 2011, the amended bill passed the Senate by a vote of 70 – 27. The amended bill was sent back to the House, where it received consideration under a closed rule on October 11, 2011. H.R. 2832, in its amended form, passed the House on October 12, 2011 by a vote of 307 – 122. It was signed into law as P.L. 112-40 by President Obama on October 21, 2011.

As signed into law, P.L. 112-40 would amend the Internal Revenue Code to: (1) extend the Health Coverage Tax Credit at a rate of 72.5 percent; (2) extend the HCTC to TAA recipients who experience a break in job training or educational programs; (3) amend the list of “qualified health insurance” options to include VEBA arrangements; (4) allow qualifying family members to continue receiving the HCTC in certain instances; (5) provide that the 63 day lapse of coverage does not begin until seven days after notice is given that

an individual is eligible for HCTC; and (6) amend COBRA to allow TAA-eligible people to receive COBRA coverage as long as they remain TAA-eligible. Additionally, to fund the extension of the HCTC, several reforms were made to the Medicare Quality Improvement Organization (QIO) program.

*c. Amending the Internal Revenue Code of 1986 to modify the calculation of modified adjusted gross income for purposes of determining eligibility for certain healthcare-related programs (H.R. 2576)*

On July 18, 2011, Representative Diane Black and three cosponsors – Representative John Duncan, Jr., Representative Peter Roskam, and Representative Kurt Schrader – introduced H.R. 2576, “To amend the Internal Revenue Code of 1986 to modify the calculation of modified adjusted gross income for purposes of determining eligibility for certain healthcare-related programs.” On October 18, 2011, the Committee marked up the bill and ordered it favorably reported by a vote of 23-12 (H. Rept. 112-254). On October 27, 2011, the House passed the bill under a Rule by a vote of 262-157. Pursuant to H. Res. 448, in the engrossment of H.R. 674, the text of H.R. 2576 was added to the end of H.R. 674. The 2010 health care law uses a uniform definition of modified adjusted gross income (“MAGI”) to determine eligibility for Exchange tax credits and cost-sharing subsidies, Medicaid, and the Children’s Health Insurance Program (CHIP). That law’s use of MAGI as the basis of eligibility determinations understates the resources available to some households. The MAGI definition is based on adjusted gross income, a tax law term that excludes, for income tax purposes, a portion of Social Security benefits. As a result, the current health law does not take into account the entire Social Security benefit when determining eligibility for certain types of government-subsidized health insurance. H.R. 2576 would count the entire Social Security benefit, rather than just the portion that is taxable for income tax purposes, as income for determining eligibility for Exchange subsidies, Medicaid, and CHIP. H.R. 2576 would bring the income requirements for these health programs into closer alignment with the measurement of income for other federal social welfare programs, like public housing assistance. H.R. 2576 would not affect the tax treatment of the Social Security benefits.

## 2. HEALTH CARE AND OTHER PROPOSALS DURING THE 112<sup>TH</sup> CONGRESS (JANUARY 5, 2011 TO MAY 31, 2012)

*a. Repealing the Job-Killing Health Care Law Act (H.R. 2)*

On January 5, 2011, Majority Leader Eric Cantor, along with Chairman Camp and 150 other cosponsors, introduced H.R. 2, the “Repealing the Job-Killing Health Care Law Act.” On January 19, 2011, the House passed the bill, as amended, under a Rule by a vote of 245-189. As of May 31, 2012, the Senate had not yet taken up the legislation.

As passed by the House, H.R. 2 would repeal the “Patient Protection and Affordable Care Act of 2010” (P. L. 111-148) and the health care provisions of the “Health Care and Education Reconciliation Act of 2010” (P.L. 111-152), including the tax provisions contained in those two laws.

*b. Medicare Decisions Accountability Act of 2011 (H.R. 452)*

On January 26, 2011, Representative David Roe and 234 cosponsors introduced H.R. 452, “Medicare Decisions Accountability Act of 2011.” On March 13, 2012, the Committee held a mark-up on the bill and ordered it favorably reported, as amended, by a voice vote (H. Rept. 112-412 Part 1). On March 16, 2012 the Committee on Energy on Commerce ordered it favorably reported, as amended (H. Rept. 112-412 Part 2). Committee on Rules discharged the bill and it was placed on the Union Calendar, Calendar No. 284, on March

16, 2012.

The Medicare Decisions Accountability Act of 2011 repeals sections 3403 and 10320 of the Patient Protection and Affordable Care Act (PPACA; P.L. 111-148) (and restores provisions of law amended by such sections) related to the establishment of an Independent Payment Advisory Board (IPAB) to develop and submit detailed proposals to reduce the per capita rate of growth in Medicare spending to the President for Congress to consider.

*a. Full Committee Hearings*

On January 26, 2011, the full Committee received testimony on the economic and regulatory impact of the Patient Protection and Affordable Care Act (P.L. 111-148) and the Health Care and Education Reconciliation Act of 2010 (P.L. 111-152) and how law is affecting job growth and retention from (i) Austan Goolsbee, Ph.D., Chairman, Council of Economic Advisors; (ii) Douglas Holtz-Eakin, Ph.D., President, American Action Forum; (iii) Scott Womack President, Womack Restaurants; and (iv) Joe Olivo, Owner/CEO, Perfect Printing. The hearing examined the impact the new taxes and new federal regulatory requirements, including the shared responsibility employer requirement, were having on job creation and small business.

On February 10, 2011, the full Committee received testimony about the impact the Patient Protection and Affordable Care Act (P.L. 111-148) and the Health Care and Education Reconciliation Act of 2010 (P.L. 111-152) are having on the Medicare program and its beneficiaries from (i) Donald M. Berwick M.D., Administrator, Centers for Medicare and Medicaid Services; and (ii) Richard S. Foster, Chief Actuary, Centers for Medicare and Medicaid Services. The hearing examined the impact these laws will have on the Medicare program and its beneficiaries.

*b. Subcommittee Hearings*

*Medicare Payments*

On March 15, 2011, the Subcommittee received testimony on MedPAC's March 2011 Report to Congress from Glen M. Hackbarth, Chairman, Medicare Payment Advisory Commission. The hearing focused on MedPAC's March 2011 Report to the Congress on Medicare payment policies and recommendations.

On May 12, 2011, the Subcommittee received testimony about Medicare payments to physicians from (i) Stuart Guterman, Vice President, Payment and System Reform, Executive Director, Commission on a High Performance Health System, The Commonwealth Fund; (ii) Lisa Dulsky Watkins, MD, Associate Director, Vermont Blueprint for Health, Department of Vermont Health Access; (iii) Dana Gelb Safran, Sc.D., Sr. Vice President for Performance Measurement and Improvement, Blue Cross Blue Shield of Massachusetts; and (iv) Keith Wilson, M.D., Chair, Governing Board and Executive Committee, California Association of Physician Groups. The hearing focused on innovative delivery and physician payment system reform efforts.

On June 22, 2011, the Subcommittee received testimony on the 2011 Annual Report of the Boards of Trustees of the Federal Hospital Insurance and Federal Supplementary Medical Insurance Trust Funds from (i) Charles P. Blahous, Ph.D., Public Trustee, Social Security and Medicare Boards of Trustees; and (ii) Robert Reischauer, Ph.D., Public Trustee, Social Security and Medicare Boards of Trustees. The hearing focused on the Medicare program's financial status.

On September 9, 2011, the Subcommittee received testimony on how health care

spending and costs are impacted by mergers and acquisitions in the health care sector from (i) Martin Gaynor, Ph.D., Professor, John Heinz III School of Public Policy and Management, Carnegie Mellon University; (ii) Paul B. Ginsburg, Ph.D., President, Center for Studying Health System Change; (iii) Dianne Kiehl, Executive Director, Business Health Care Group; (iv) Michael Guarino, Member, Board of Directors, Ambulatory Surgery Center Association; and (v) David Balto, Senior Fellow, Center for American Progress Action Fund. The hearing focused on the impact health care consolidation is having on the cost of private health insurance, Medicare spending, and beneficiary costs.

On September 21, 2011, the Subcommittee received testimony on certain expiring Medicare provider payment provisions from (i) Rich Umbdenstock, President, American Hospital Association; (ii) Stephen Williamson, President, American Ambulance Association; (iii) Robert Wah, MD, Chairman, Board of Trustees, American Medical Association; (iv) Justin Moore, Vice President of Government Affairs, American Physical Therapy Association; and (v) A. Bruce Steinwald, President, Steinwald Consulting. The hearing focused on certain expiring Medicare provider payment provisions and the impact these provisions have on program spending, health care providers, and beneficiaries.

On March 6, 2012, the Subcommittee received testimony about the Independent Payment Advisory Board from (i) Scott Gottlieb, M.D., Resident Fellow, American Enterprise Institute for Public Policy Research; (ii) Katherine Beh Neas, Senior Vice President, Government Relations Easter Seals, Office Of Public Affairs; (iii) David F. Penson, M.D., MPH, Vice Chair, Health Policy Council, American Urological Association; and (iv) Marilyn Moon, Ph.D., Senior Vice President and Director, Health Program American Institutes for Research. The hearing examined the impact Sections 3403 and 10320 of the “Patient Protection and Affordable Care Act” (P.L. 111-148) will have on the Medicare program, its beneficiaries, and health care providers.

On March 29, 2012, the Subcommittee received testimony about the individual and employer mandates in the “Patient Protection and Affordable Care Act” (P.L. 112-148) and “Health Care and Education Reconciliation Act” (P.L. 112-152) from (i) Carrie Severino, Chief Counsel, Policy Director, Judicial Crisis Network; (ii) Steven G. Bradbury, Partner, Dechert LLP; (iii) Joseph D. Henschman, Vice President, Legal Projects, Tax Foundation; (iv) Neil S. Siegel, Professor of Law and Political Science, Duke University School of Law; (v) Diana Furchtgott-Roth, Senior Fellow, Manhattan Institute for Policy Research; (vi) Sylvester J. Schieber, Consultant, Council for Affordable Health Coverage; (vii) Thomas J. Shaw, President, Barton Mutual Insurance Company; and (viii) Stephen LaMontagne, President and CEO, Georgetown Cupcake, Inc. The hearing focused on the constitutional questions surrounding the individual mandate and the economic impact of the employer mandate.

#### D. LEGISLATIVE REVIEW OF HUMAN RESOURCES ISSUES

##### 1. HUMAN RESOURCES BILLS ENACTED INTO LAW DURING THE 112<sup>TH</sup> CONGRESS (JANUARY 5, 2011 TO MAY 31, 2012)

###### *a. Short-Term TANF Extension Act (P.L. 112-35).*

On September 15, 2011, Representative Geoff Davis introduced H.R. 2943, the “*Short-Term TANF Extension Act.*” H.R. 2943 extended the current \$16.5 billion TANF block grant, along with associated programs, at their current funding levels through December 31, 2011. According to the Congressional Budget Office, the bill did not increase the deficit. On September 21, 2011, the House suspended the rules and passed it by voice vote. The Senate passed H.R. 2943 without amendment by voice vote on September 23, 2011. The President signed H.R. 2943 into law on September 30, 2011.

###### *b. Child and Family Services Improvement and Innovation Act (P.L. 112-34).*

On September 12, 2011, Representatives Geoff Davis and Lloyd Doggett introduced H.R. 2883, the “*Child and Family Services Improvement and Innovation Act.*” H.R. 2883 reauthorized two child welfare programs, Stephanie Tubbs Jones Child Welfare Services and Promoting Safe and Stable Families, through Fiscal Year 2016 at current funding levels. Further, the bill reauthorized the Court Improvement Program but set aside \$20 million from the Promoting Safe and Stable Families program for this purpose instead of providing a separate additional appropriation. H.R. 2883 also reauthorized through the Fiscal Year 2014 the U.S. Department of Health and Human Services’ authority to grant new child welfare waivers (a provision already passed by voice vote in the House on May 31, 2011 under H.R. 1194, a bill to renew the authority of the Secretary of Health and Human Services to approve demonstration projects designed to test innovative strategies in State child welfare programs). In addition, the bill ended the Mentoring Children of Prisoners program while adding mentoring as a purpose for the Promoting Safe and Stable Families Program.

Besides the reauthorization provisions, H.R. 2883 also provided several child welfare program improvements. The bill revised the current requirement for caseworkers to visit foster youth each month to better capture the percentage of visits actually made in the year and ensure a substantial percentage of visits occur in the home. H.R. 2883 also broadened the focus of current regional grants for helping parents with substance abuse issues by permitting States to focus on the most critical substance abuse issues while capping funds for administrative purposes at 5 percent. Further, the bill improved data matching and program integrity by requiring standardized data and HHS coordination of data exchanges across State child welfare programs. The bill also modified State requirements on serving foster youth to better meet children’s needs, including responding to emotional trauma and addressing developmental needs. In addition, the bill requires States to better document spending on post-adoption services, and HHS to compile child welfare spending data and post it on their website. Finally, H.R. 2883 required HHS to evaluate the effectiveness of regional grants to help parents with substance abuse issues, and GAO to investigate duplication in child welfare programs and to report on the time families must wait for substance abuse or other services.

On September 19, 2011, the Committee marked up the bill and ordered it favorably reported by a voice vote. On September 21, 2011, the House suspended the rules and passed the bill as amended by a recorded vote of 395 – 25. The Senate passed H.R. 2883 without amendment by voice vote on September 22, 2012. The President signed H.R. 2883 into law on September 30, 2011.

## 2. HUMAN RESOURCES PROPOSALS DURING THE 112<sup>TH</sup> CONGRESS

### *Sequester Replacement Reconciliation Act of 2012 (H.R. 5652) / Ways and Means Committee Budget Reconciliation Legislative Recommendations*

The Committee print, “Budget Reconciliation Legislative Recommendations Relating to Repeal of Block Grants to States for Social Services” was favorably transmitted without amendment to the House Budget Committee by a roll call vote of 22 – 14 on April 27, 2012. The Committee print repealed sections 2001 through 2007 of Title XX of the Social Security Act, ending authorization for the \$1.7 billion Social Services Block Grant (SSBG) on September 30, 2012. On May 9, 2012, the Committee on the Budget favorably reported H.R. 5652, the “Sequester Replacement Reconciliation Act of 2012,” containing the transmitted legislative recommendations from the House Ways and Means Committee, which included the repeal of the SSBG. On May 10, 2012, the House passed H.R. 5652 by a recorded vote of 218 – 199, with one Member voting “Present.”

## 3. HUMAN RESOURCES ISSUES DURING THE 112<sup>TH</sup> CONGRESS

### *a. Unemployment Insurance Issues*

On February 10, 2011, the Subcommittee received testimony on improving efforts to help unemployed Americans find jobs from (i) Kristen Cox, Executive Director, Utah Workforce Services; (ii) Tom Pauken, Chairman, Texas Workforce Commission; (iii) Heather Boushey, Ph.D., Senior Economist, Center for American Progress; and (iv) Douglas J. Holmes, President, UWC-Strategic Services on Unemployment and Workers' Compensation. The hearing focused on current policies and programs designed to help unemployed individuals return to work and how they can be improved.

On May 5, 2011, Chairman Dave Camp with two original cosponsors, Human Resources Subcommittee Chairman Geoff Davis and Representative Rick Berg, introduced H.R. 1745, the "Jobs, Opportunity, Benefits, and Services (JOBS) Act of 2011."

Title one of the JOBS Act provides for reforms to modify the operation of permanent law unemployment benefits. It requires States to adopt a minimum standard for job searches required of unemployment benefit recipients; expects States to engage unemployment benefit recipients without high school degrees in education and training as a condition of eligibility; and allows States to apply for waivers of Federal unemployment laws. It also provides for a data element and reporting standardization to improve information sharing.

Title two of the JOBS Act provides all States new flexibility in spending their share of the \$31 billion in remaining temporary Federal unemployment funds. Under the JOBS Act, States could use this money to continue paying current Federal unemployment benefits, or instead pass laws that would use some or all of this Federal money to keep unemployment taxes down or otherwise promote employment, as needed by local conditions.

The Committee held a mark-up on May 11, 2011. The bill was ordered favorably reported, as amended, by a vote of 20 – 14 (H. Rept. 112-87). The bill was placed on the Union Calendar, Calendar No. 48 on May 23, 2011. Through May 31, 2012, no further action had been taken by the House on H.R. 1745.

On October 6, 2011, the Subcommittee received testimony focusing on a review of the President's recent proposals designed to help long-term unemployed individuals return to work. The Subcommittee received testimony from (i) The Honorable Ron Wyden, a Senator from the State of Oregon; (ii) The Honorable Jim Renacci, a Representative from the State of Ohio, accompanied by the Honorable Hansen Clarke, a Representative from the State of Michigan; (iii) The Honorable Jane Oates, Assistant Secretary, Employment and Training Administration, U.S. Department of Labor; (iv) Maren Daley, Executive Director, Job Service North Dakota; (v) Dawn Deane, Unemployed Worker; (vi) Don Peitersen, Director of Unemployment/Workforce Project, American Institute for Full Employment; and (vii) Chris McConnell, Workforce Consultant, AlliedBarton Security Services.

On April 25, 2012, the Subcommittee received testimony from (i) The Honorable Jane Oates, Assistant Secretary, Employment and Training Administration, U.S. Department of Labor; (ii) Darrell Gates, Deputy Commissioner, New Hampshire Department of Employment Security; (iii) Larry Temple, Executive Director, Texas Workforce Commission; (iv) Wayne Vroman, Ph.D., Senior Fellow, The Urban Institute; (v) Douglas J. Holmes, President, UWC – Strategic Services on Unemployment & Workers' Compensation; and (vi) Michael Cullen, Managing Director, OnPoint Technologies. The hearing focused on the implementation of reforms to unemployment benefits enacted in P.L. 112-96, The Middle Class Tax Relief and Job Creation Act.

### *b. Welfare Reform Issues*

On September 8, 2011, the Subcommittee received testimony focusing on oversight of the TANF program along with proposals to improve work and other TANF goals as part of legislation to extend TANF and related programs. The Subcommittee received testimony from (i) Gary Alexander, Secretary, Pennsylvania Department of Public Welfare; (ii) Kay E. Brown, Director, Education, Workforce, and Income Security, U.S. Government Accountability Office; (iii) Douglas Besharov, Professor, School of Public Policy, University of Maryland; (iv) Scott Wetzler, Ph.D., Vice Chairman and Professor, Department of Psychiatry and Behavioral Sciences, Montefiore Medical Center; and (v) LaDonna Pavetti, Ph.D., Vice President for Family Income Support Policy, Center on Budget and Policy Priorities.

On May 17, 2012, the Subcommittee received testimony from (i) Kay E. Brown Director, Education, Workforce, and Income Security, U.S. Government Accountability Office; (ii) Grant Collins, Senior Vice President for Workforce Services, ResCare; (iii) Carol Cartledge, Director, Economic Assistance Policy Division, North Dakota Department of Human Services; (iv) Peter Palermino, TANF Administrator, Connecticut Department of Social Services, Representing the American Public Human Services Association; and (v) LaDonna Pavetti, Ph.D., Vice President for Family Income Support Policy, Center on Budget and Policy Priorities. The hearing focused on TANF State Maintenance of Effort (MOE) spending requirements and their interaction with TANF work requirements.

### *c. Child Welfare and Child Support Issues*

On March 17, 2011, Representative Jim McDermott and Human Resources Subcommittee Chairman Geoff Davis introduced H.R. 1194, a bill to renew the authority of the Secretary of Health and Human Services to approve demonstration projects designed to test innovative strategies in State child welfare programs. The House agreed to suspend the Rules and pass the bill by voice vote on May 31, 2011.

H.R. 1194 amends title XI of the Social Security Act to renew through FY2016 the authority of the Secretary of Health and Human Services (HHS) to authorize waivers for states to conduct child welfare program demonstration projects likely to promote the objectives of Parts B (Child and Family Services and Promoting Safe and Stable Families Programs) or E (Foster Care, Adoption Assistance, and Kinship Guardianship) of Title IV of the Social Security Act (SSA). Demonstration projects that may be approved include those designed to identify and address barriers that result in delays to kinship guardianship for children in foster care, provide early intervention and crisis intervention services that safely reduce out-of-home placements and improve child outcomes, and identify and address domestic violence that endangers children and results in the placement of children in foster care. HHS child welfare waiver authority was subsequently renewed by H.R. 2883, the Child and Family Services Improvement and Innovation Act, which the President signed into law on September 30, 2011.

On June 16, 2011, the Subcommittee received testimony reviewing recent changes to the Stephanie Tubbs Jones Child Welfare Services program and the Promoting Safe and Stable Families program, as well as considering whether additional changes should be made in legislation to reauthorize these programs. The Subcommittee received testimony from (i) The Honorable Dennis R. "Denny" Rehberg, a Representative from the State of Montana; (ii) The Honorable Karen R. Bass, a Representative from the State of California; (iii) The Honorable Bryan Samuels, Commissioner, Administration on Children, Youth and Families, Administration for Children and Families, U.S. Department of Health and Human Services; (iv) Patricia R. Wilson, Commissioner, Department for Community Based Services, Kentucky Cabinet for Health and Family Services; (v) Lelia Baum Hopper, Director, Court

Improvement Program, Supreme Court of Virginia; (vi) Tracy Wareing, Executive Director, American Public Human Services Association; (vii) John Sciamanna, Director, Policy and Government Affairs, Child Welfare, American Humane Association; and (viii) Steve Yager, Deputy Director, Children's Services Administration, Michigan Department of Human Services.

On July 12, 2011 the Subcommittee received testimony reviewing data on child deaths due to maltreatment, determining how to improve the accuracy of this data, and reviewing how improving the accuracy of this data may help prevent future fatalities. The Subcommittee received testimony from (i) Kay E. Brown, Director, Education, Workforce, and Income Security, U.S. Government Accountability Office; (ii) Tamara Tunie, Actor, Law and Order: SVU and Spokesperson, National Coalition to End Child Abuse Deaths; (iii) Theresa Covington, M.P.H., Director, The National Center for Child Death Review; (iv) Michael Petit, President and Founder, Every Child Matters Education Fund; (v) Carole Jenny, M.D., Director, Child Protection Program, Hasbro Children's Hospital; and (vi) Jane McClure Burstain, Ph.D., Senior Policy Analyst, Center for Public Policy Priorities.

On March 20, 2012, the Subcommittee received testimony from (i) S. Kay Farley, Executive Director, National Center for State Courts; (ii) Marilyn Stephen, Director, Office of Child Support, Michigan Department of Human Services; (iii) Craig Burlingame, Chief Information Officer, Trial Court Information Services, Massachusetts Court System; and (iv) Gordon Berlin, President, MDRC. The hearing focused on the implementing legislation for the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance and related CSE improvements.

#### *d. Data Matching Issues*

On March 11, 2011, the Subcommittee received testimony on the use of data matching to improve customer service, program integrity, and taxpayer savings from (i) The Honorable Patrick P. O'Carroll, Jr., Inspector General, Social Security Administration; (ii) Sundhar Sekhar, Principal, National Health and Human Services Practice Leader, Deloitte Consulting; (iii) Joseph Vitale, Director, Information Technology Systems Center (ITSC), National Association of State Workforce Agencies (NASWA); (iv) Elizabeth Lower-Basch, Senior Policy Analyst, Center for Law and Social Policy; and (v) Ron Thornburgh, Senior Vice President of Business Development, NIC. The hearing focused on the use of data matching to improve public benefit programs under the Subcommittee's jurisdiction.

On April 19, 2012, the Subcommittee received testimony from (i) Donna Roy, Executive Director, National Information Exchange Model (NIEM), U.S. Department of Homeland Security; (ii) The Honorable George Sheldon, Acting Assistant Secretary, Administration for Children and Families, U.S. Department of Health and Human Services; (iii) Robert Doar, Commissioner, Human Resources Administration, New York City; (iv) Ginger Zielinskie, Executive Director, Benefits Data Trust; (v) Darryl McDonald, Executive Vice President, Teradata Corporation; and (vi) Campbell Pryde, President and Chief Executive Officer, XBRL US. The hearing focused on current and future data standardization efforts designed to increase the use of technology to improve the administration of public benefit programs.

## E. LEGISLATIVE REVIEW OF SOCIAL SECURITY ISSUES

### 1. STEWARDSHIP OF SOCIAL SECURITY PROGRAMS

Under the Budget Control Act, signed into law on August 2, 2011, the Social Security Administration (SSA) received dedicated funds above the ten year domestic discretionary

caps to conduct continuing disability reviews and Supplemental Security Income redeterminations. A joint June 14, 2011 Subcommittee on Oversight and Subcommittee on Social Security hearing on accuracy of payments made by the SSA highlighted the need for additional funding to conduct these critical reviews.

## 2. USE OF SOCIAL SECURITY NUMBERS

As a result of Subcommittee hearings and numerous press reports detailing the growing problem of identity theft, particularly against children, Subcommittee Chairman Johnson has introduced legislation to help protect Social Security numbers (SSNs) from identity thieves.

On April 12, 2011, Subcommittee on Social Security Chairman Johnson and Subcommittee Member Lloyd Doggett introduced H.R.1509, "The Medicare Identity Theft Prevention Act of 2011," bipartisan legislation prohibiting the inclusion of SSNs on Medicare cards.

On November 18, 2011, Subcommittee Chairman Johnson, along with a number of members of the Committee on Ways and Means (Mr. Berg, Mr. Brady, Mr. Heger, Ms. Jenkins, Mr. Marchant, Mr. Schock and Mr. Tiberi) introduced H.R. 3475 "Keeping IDs Safe Act of 2011" to end the Social Security Administration's Public Death Master File publication. Social Security compiles death records from its own files and which includes SSNs and sells the publication to the public through the Commerce Department. The SSNs of the deceased have been implicated in crimes against deceased children according to recent press reports. Some of these crimes include using the deceased child's SSN to submit a fraudulent tax return.

## F. LEGISLATIVE REVIEW OF DEBT ISSUES

### 1. DEBT ISSUE PROPOSALS

#### *a. To implement the President's request to increase the statutory limit on the public debt*

On May 24, 2011, Chairman Dave Camp introduced H.R. 1954, "To implement the President's request to increase the statutory limit on the public debt." The bill provides for an increase in the statutory debt limit of \$2.4 trillion, the amount needed to implement the President's FY 2012 budget proposal. On May 31, 2011, the House rejected the bill under suspension of the rules by a vote of 97 – 318, with 7 voting present (Roll no. 379).

#### *b. Cut, Cap, and Balance Act of 2011*

On July 15, 2011, Representative Jason Chaffetz and 117 cosponsors introduced H.R. 2560, the "Cut, Cap, and Balance Act of 2011." The bill was referred to the Committee on the Budget, and in addition to the Committees on Rules, and Ways and Means. On July 19, 2011, the House passed by recorded vote: 234 – 190. On H.R. 2560 was received in the Senate and on July 22, 2011 a motion to proceed was tabled in the Senate by a vote of 51 – 46.

#### *c. Budget Control Act of 2011*

On July 28, 2011, House Rules Committee Chairman David Dreier introduced H.R. 2693. H.R. 2693 failed passage on July 30, 2011, by a roll call vote of 173 – 246.

#### *d. Relating to the disapproval of the President's exercise of authority to increase the debt limit, as submitted under section 3101A of title 31, United States Code, on August 2,*

2011.

On September 7, 2011, Representative Tom Reed and sixty-seven cosponsors introduced H.J.Res. 77 “*Relating to the disapproval of the President's exercise of authority to increase the debt limit, as submitted under section 3101A of title 31, United States Code, on August 2, 2011.*” The Committee on Ways and Means discharged the resolution on September 12, 2011. The House passed H.J.Res 77 by a recorded vote of 232 – 186. On September 15, 2011 H.J.Res 77 was received in the Senate and read twice. The resolution was placed on Senate Legislative Calendar under General Orders. Calendar No. 168 pursuant to Public Law 112-25, Section 301(a)(2).

## 2. OTHER DEBT MATTERS—FULL COMMITTEE HEARINGS

On March 30, 2011, the full Committee received testimony on impediments to jobs creation from (i) Dr. Edward Lazear, Professor, Stanford University; (ii) Dr. Andrew Biggs, Resident Scholar, American Enterprise Institute; (iii) Dr. Heather Boushey, Senior Economist, Center for American Progress; and (iv) Dr. Veronique de Rugy, Senior Research Fellow, Mercatus Center. The hearing focused on identifying impediments to job creation and the impact of budget deficits and growing debt levels in particular.

### G. LEGISLATIVE REVIEW OF MULTI-JURISDICTIONAL ISSUES

#### 1. BILLS ENACTED INTO LAW DURING THE 112<sup>TH</sup> CONGRESS (JANUARY 5, 2011 TO MAY 31, 2012)

##### *a. Temporary Payroll Tax Cut Continuation Act of 2011 (P.L. 112-78)*

On December 23, 2011, Chairman Dave Camp introduced H.R. 3765, the “Temporary Payroll Tax Cut Continuation Act of 2011.” The bill passed the House without objection and passed the Senate by unanimous consent on December 23, 2011. The President signed the bill into law on December 23, 2011.

H.R. 3765 extended through February 29, 2012, several provisions scheduled to expire on December 31, 2011: the 2-percentage point reduction in the Social Security payroll tax rate applicable to employees and the self-employed, Federal unemployment insurance benefits provided under the Emergency Unemployment Compensation and Extended Benefit programs, Medicare Modernization Act section 508 reclassifications, the Medicare Work Geographic Adjustment Floor, the exceptions process for Medicare therapy caps, the payment for the technical component of certain physician pathology services, the payment of certain urban air ambulance services, the physician fee schedule mental health add-on payment, the outpatient hold harmless provision, the minimum payment for bone mass measurement, the Qualifying Individual (QI) program, Transitional Medical Assistance, and the Temporary Assistance for Needy Families (TANF) program. The legislation prevented a 27.4 percent rate cut from being applied to Medicare physician payments through February 29, 2012. The legislation also extended through March 1, 2012 bonus and increased payments for ground ambulance services and increased payments for super rural ambulance services.

H.R. 3765 required the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation to adjust guarantee fees and required the Federal Housing Administration to adjust premium amounts. Finally, the legislation required the President to grant a permit for the Keystone XL pipeline unless the President determines that the pipeline would not serve the national interest.

##### *b. Middle Class Tax Relief and Job Creation Act of 2012 (P.L. 112-96)*

On December 9, 2011, Chairman Dave Camp – along with five cosponsors – introduced

H.R. 3630, the “Middle Class Tax Relief and Job Creation Act of 2012.” On December 9, 2011, the bill was referred to the following Committees: Ways and Means, Energy and Commerce, Financial Services, Foreign Affairs, Transportation and Infrastructure, Agriculture, Oversight and Government Reform, House Administration, the Budget, Natural Resources, Rules, and Intelligence (Permanent Select). On December 13, 2011, the House passed H.R. 3630 by a recorded vote of 234 - 193 (Roll no. 923). On December 17, 2011, the Senate passed the bill, as amended (SA 1466), by Unanimous Consent. The Conference Report (H. Rept. 112-399) passed the House on February 17, 2012 by a vote of 293 - 132 (Roll no. 72) and passed the Senate by vote of 60 - 36 (Record Vote Number: 22). The President signed the bill into law on February 22, 2012 (P.L. 112- 96).

### *The House Bill*

The House bill contained six titles which are summarized below:

#### Title I. Job Creation Incentives

This section: (1) required the President to grant a permit for the Keystone XL pipeline unless the President determines that the pipeline would not serve the national interest; (2) directed the Administrator of the EPA to promulgate new rules to replace four interrelated EPA rules setting Maximum Achievable Control Technology (MACT) and other performance standards for industrial, commercial and institutional boilers and process heaters, and commercial and industrial solid waste incineration units; and (3) extended through 2012 the allowance for 100 percent bonus depreciation for certain business assets and expanded the applicability of that benefit.

#### Title II. Extension of Certain Expiring Provisions and Related Measures

This section: (1) extended through 2012 the 2-percentage point reduction in the Social Security payroll tax rate applicable to employees and the self-employed; (2) reformed State and Federal unemployment insurance (UI) programs to promote work and job creation including by allowing States to apply for cost-neutral waivers of Federal law, permitting States to drug test recipients they have determined are likely to be using illegal substances, reducing the maximum number of weeks of Emergency Unemployment Compensation benefits payable per person, and extending certain policies related to the Extended Benefit program through the end of January 2013; (3) extended several Medicare payment provisions including the 2011 Medicare physician payment rates for 2012 and 2013; (4) reduced the deficit through several health provisions including recapturing an increased amount of overpayments of Federal subsidies to purchase health insurance included in the Affordable Care Act (P.L. 111-148 and P.L. 111-152) and limiting the facility payment for patient visit services furnished in the hospital outpatient department to the physician office rate; and (5) extended Temporary Assistance for Needy Families (TANF) and related programs at their current authorization through FY 2012 and improved program data standards as well as prohibited TANF benefits from being accessed at ATMs in strip clubs, liquor stores, and casinos.

#### Title III. Flood Insurance Reform

This section made numerous reforms to the National Flood Insurance Program (NFIP) including: (1) reauthorized the NFIP and its financing through September 30, 2016; (2) suspended temporarily the mandatory purchase requirement subject to certain conditions;

(3) reformed certain terms of coverage including minimum deductibles and maximum coverage limits; (4) reformed premium rates including by increasing the annual limit on premium rate increases; (5) established a new technical mapping advisory council; and (6) required the Federal Emergency Management Agency (FEMA) to issue notifications to the general public and Members of Congress regarding changes to the NFIP.

#### Title IV. Jumpstarting Opportunity with Broadband Spectrum Act of 2011

This section: (1) provided spectrum auction authority and detailed procedures to be followed in implementing the auction; (2) reallocated spectrum for use by public safety entities; (3) established a Public Safety Communications Planning Board and Administrator to govern the public safety broadband spectrum; (4) reestablished and extended matching grants to eligible state or local governments or tribal organizations for the implementation, operation, and migration of various 9-1-1, E9-1-1, Next Generation 9-1-1, and IP-enabled emergency services and public safety personnel training; (5) established processes for the relocation of Federal spectrum; and (6) eliminated the requirement that the Telecommunications Development Fund maintain government officials as members of its board of directors.

#### Title V. Offsets

This section: (1) directed the Federal Housing Finance Agency (FHFA) to require Fannie Mae and Freddie Mac to increase the guarantee fees that these Government Sponsored Enterprises (GSEs) charge for assuming the credit risk on the loans they purchase in the secondary mortgage market; (2) prevented Social Security overpayments by improving coordination with States and local governments; (3) required a Social Security Number in order to collect the refundable portion of the child tax credit; (4) ended Unemployment and Supplemental Nutrition Assistance program benefits for millionaires; (5) reformed the Civil Service and Federal Employee Retirement Systems; and (6) required higher-income Medicare beneficiaries to pay a larger share of the Part B and D premiums.

#### Title VI. Miscellaneous Provisions

This section: (1) repealed certain timing shifts of corporate estimated tax payments; (2) repealed a requirement that importers pre-pay certain fees authorized under the Consolidated Omnibus Budget Reconciliation Act of 1985; (3) included two Senate points of order related to protecting the Social Security Trust Fund and emergency spending; and (4) provided that the budgetary effects of the bill shall not be entered on the statutory PAYGO scorecards if the bill is deficit neutral over 10 years.

### *Conference Report for the Middle Class Tax Relief and Job Creation Act of 2012 (P.L. 112-96)*

#### Title I. Extension of Payroll Tax Reduction

The Conference Report extended through 2012 the 2-percentage point reduction in the Social Security payroll tax rate applicable to employees and the self-employed.

#### Title II. Unemployment Benefit Continuation and Program Improvement

The Conference Report: (1) allowed States to apply for cost-neutral waivers of Federal

law; (2) improved program integrity by better recovering unemployment insurance benefit overpayments; (3) standardized and provided for the exchange of data for improved interoperability; (4) permitted States to drug test recipients under certain circumstances; (5) improved work search for the long-term unemployed; (6) required participation in reemployment services for EUC benefit receipt; (7) extended through 2012 the Emergency Unemployment Compensation (EUC) and Extended Benefits (EB) programs; (8) changed the eligibility requirements for tiers two through four of the EUC program to reduce the maximum number of weeks of benefits payable per person over time; (9) authorized financing for short-time compensation agreements; and (10) increased the ability of States to conduct self-employment assistance programs.

### Title III. Medicare and Other Health Provisions

The Conference Report adopted the House provisions to: (1) extend through 2012 the Medicare Work Geographic Adjustment Floor; (2) extend through 2012 the Qualifying Individual (QI) program; (3) extend through 2012 Transitional Medical Assistance; and (4) rebase Medicaid Disproportionate Share Hospital (DSH) Allotments in FY 2021.

The Conference Report also: (1) extended higher wage payments to certain eligible hospitals, known as "Section 508 hospitals," through March 31, 2012; (2) extended the outpatient hold harmless payments for eligible rural hospitals and sole community hospitals (SCHs) with fewer than 100 beds through 2012; (3) extended the 2011 Medicare physician payment rates through 2012; (4) extended and reformed the exceptions process for the Medicare outpatient therapy caps through 2012; (5) extended the payment for the technical component of certain physician pathology services through June 30, 2012; (6) extended the add-on payments for air ambulance services, urban ground ambulance services, rural ground ambulance services, and ambulance trips originating in qualified "super rural" areas through December 31, 2012; (7) reduced Medicare provider bad debt reimbursements; (8) rebased clinical laboratory payment rates in 2013; (9) made a technical correction to the disaster recovery Federal Medical Assistance Percentage (FMAP) provision; and (10) reduced funding in the Prevention and Public Health Fund created in the Affordable Care Act (P.L. 111-148 and P.L. 111-152).

### Title IV. TANF Extension

The Conference Report adopted the House provisions to extend through FY 2012 the Temporary Assistance for Needy Families (TANF) and related programs, with accompanying reforms.

### Title V. Federal Employees Retirement

The Conference Report: (1) increased by 2.3% the employee pension contribution for federal employees entering service after December 31, 2012, who have less than five years of creditable civilian service; (2) made Members of Congress and other congressional employees entering service after December 31, 2012, who have less than five years of creditable civilian service, subject to the same pension contribution rate and annuity calculations as other federal employees; and (3) made similar changes in the pension contribution rate and annuity calculations for new employees entering the Foreign Service Pension System and the Central Intelligence Agency (CIA) Retirement and Disability System after December 31, 2012.

### Title VI. Public Safety Communications and Electromagnetic Spectrum

## Auctions

The Conference Report adopted the House provisions to: (1) reallocate spectrum for use by public safety entities; (2) reestablish and extend matching grants to eligible state or local governments or tribal organizations for the implementation, operation, and migration of various 9-1-1, E9-1-1, Next Generation 9-1-1, and IP-enabled emergency services and public safety personnel training; (3) eliminate the requirement that the Telecommunications Development Fund maintain government officials as members of its board of directors; and (4) establish processes for the relocation of Federal spectrum.

The Conference Report also: (1) established a process for the governance of public safety spectrum; (2) established the State and Local Implementation Fund to implement a state, regional, tribal, and local planning and implementation grant program; and (3) provided spectrum auction authority and detailed procedures to be followed in implementing the auction.

### Title VII. Miscellaneous Provisions

The Conference Report adopted the House provisions to: (1) repeal certain timing shifts of corporate estimated tax payments; (2) repeal a requirement that importers pre-pay certain fees authorized under the Consolidated Omnibus Budget Reconciliation Act of 1985; and (3) provide that the budgetary effects of the bill shall not be entered on the statutory PAYGO scorecards provided that the bill is deficit neutral over 10 years.

## 2. OTHER MULTI-JURISDICTIONAL PROPOSALS DURING THE 112<sup>TH</sup> CONGRESS (JANUARY 5, 2011 TO MAY 31, 2012)

### *a. National Defense Authorization Act for Fiscal Year 2012 (H.R. 1540)*

On April 14, 2011, Armed Services Committee Chairman Howard P. “Buck” McKeon introduced the “National Defense Authorization Act for Fiscal Year 2012” (H.R. 1540), which the Armed Services Committee ordered favorably reported to the House, with an amendment, on May 11, 2011. On May 12, 2011 and May 16, 2011, Chairman Camp and Chairman McKeon exchanged letters acknowledging the jurisdiction of the Ways and Means Committee over various provisions in the bill, including a tax-related provision relating to an energy grant program established under P.L. 111-5.

H.R. 1540 also included a provision that would require future Medicare-eligible enrollees in the Uniformed Services Family Health Plan to enroll in Medicare when they turn 65. These enrollees would also receive TRICARE for Life as wraparound coverage once they were enrolled in Medicare. The Subcommittee on Health received a referral based on the inclusion of this provision.

H.R. 1540 passed the House May 26, 2011, and was subsequently referred to the Senate Committee on Armed Services.

## 3. OTHER MULTI-JURISDICTIONAL ISSUES DURING THE 112<sup>TH</sup> CONGRESS (JANUARY 5, 2011 TO MAY 31, 2012)

### *a. Budget Hearings*

On February 15, 2011, the full Committee held a hearing to receive testimony from Secretary of the Treasury Timothy F. Geithner concerning provisions of the President’s FY 2012 budget proposal within the jurisdiction of the Committee.

On February 16, 2011, the full Committee held a hearing to receive testimony from Secretary of Health and Human Services Kathleen Sebelius concerning provisions of the President's FY 2012 budget proposal within the jurisdiction of the Committee.

On February 16, 2011, the full Committee held a hearing to receive testimony from Jacob Lew, Director of the Office of Management and Budget, concerning provisions of the President's FY 2012 budget proposal within the jurisdiction of the Committee.

On February 15, 2012, the full Committee held a hearing to receive testimony from Secretary of the Treasury Timothy F. Geithner concerning provisions of the President's FY 2013 budget proposal within the jurisdiction of the Committee.

On February 28, 2012, the full Committee held a hearing to receive testimony from Secretary of Health and Human Services Kathleen Sebelius concerning provisions of the President's FY 2013 budget proposal within the jurisdiction of the Committee. The hearing also focused on the effects of the "Patient Protection and Affordable Care Act" (P.L. 111-148) and the "Health Care and Education Reconciliation Act of 2010" (P.L. 111-152).

## II. Oversight Activity Review

### A. OVERSIGHT AGENDA

COMMITTEE ON WAYS AND MEANS,

U.S. HOUSE OF REPRESENTATIVES,

Washington, DC, February 15, 2011.

THE HONORABLE DARRELL ISSA,

*Chairman, Committee on Oversight & Government Reform*

*2157 Rayburn House Office Bldg., Washington, DC*

The Honorable Daniel E. Lungren

*Chairman, Committee on House Administration*

*1309 Longworth House Office Bldg., Washington, DC*

DEAR CHAIRMAN ISSA AND CHAIRMAN LUNGREN: In accordance with the requirements of clause 2 of Rule X of the Rules of the House of Representatives, the following is a list of oversight hearings and oversight-related activities that the Committee on Ways and Means and its Subcommittees plan to conduct during the 112<sup>th</sup> Congress.

#### **Matters under the Committee's Federal Budget Jurisdiction:**

- **Economic and Budget Outlook.** Oversight hearings with various Administration officials to discuss current economic and budget conditions, including the long-term outlook, the state of the economy, prospects for recovery and long-term growth, our economic competitiveness, private sector job creation, and limits on the public debt.

#### **Matters under the Committee's Tax Jurisdiction:**

- **Tax Reform.** Hearings on simplifying and reforming the tax code for individuals, families, and employers in order to better promote economic growth and job creation.
- **Priorities of the Department of the Treasury.** Hearings with the Treasury Secretary and other Administration officials to receive information regarding the Administration's tax-related priorities for the 112<sup>th</sup> Congress. Specifically, discuss and consider legislative and administrative proposals contained in the President's fiscal year 2012 and 2013 budgets.
- **Appropriate Tax Relief for Individuals, Families, and Employers.** Hearings on appropriate tax relief measures for individual taxpayers, families, and employers of all

sizes.

- **Internal Revenue Service Operations/Administration of Tax Laws.** Oversight of the major Internal Revenue Service (IRS) programs, including enforcement, collection, taxpayer services, returns processing, and information systems. Consider analyses and reports provided to the Congress by the IRS National Taxpayer Advocate, Treasury Inspector General for Tax Administration, and the Government Accountability Office (GAO). Oversight of IRS funding and staffing levels needed to provide taxpayer assistance and enforce the tax law fairly, effectively and efficiently. Evaluate tax return filing seasons, including use of paid tax preparers, electronic filing, IRS and volunteer taxpayer assistance programs, and the Free File Program. Discuss proposed funding and staffing levels for the IRS and legislative proposals and administrative proposals contained in the President's fiscal year 2012 and 2013 budgets. Review IRS realignment and closure of service centers and other facilities.
- **Delivery of Tax Refunds.** Oversight related to the delivery of Federal tax refunds via the use of debit cards to assist individuals who do not have access to financial accounts or institutions.
- **Tax-Exempt Organizations.** Oversight of Federal tax laws, regulations, and filing requirements that affect tax-exempt organizations, particularly charities and foundations. Evaluate overall IRS efforts to monitor tax-exempt organizations, identify areas of non-compliance, prevent abuse, and ensure timely disclosure to the public about tax-exempt organization activities and finances.
- **Tax Code and Tax Form Simplification.** Oversight of tax code and tax form complexity, particularly for individuals, with the goal of simplification. Review areas where taxpayers and professional return preparers have difficulty, including areas where they make the most errors, and consider solutions. Evaluate simplification of information returns to assist taxpayers in determining taxable income. Examine proposals to close the "tax gap" by simplifying compliance with our tax laws.
- **Earned Income Tax Credit ("EITC").** Oversight of IRS programs designed to provide tax assistance to more than 23 million low-income working taxpayers claiming the EITC. Evaluate the participation and error rates within the program.
- **Tax Scams.** Oversight of the latest tax scams and tax fraud activities with a goal of protecting taxpayers and preventing identity theft.
- **Federal Excise Taxes.** Oversight review of Federal excise taxes, credits, and refunds, including the trust funds financed by these taxes.
- **Pensions and Retirement Security.** Oversight review of the financial condition, operations, and governance of the Pension Benefit Corporation ("PBGC"), including financial exposure of the PBGC.

**Matters under the Committee's Health Jurisdiction:**

- **Priorities of the Department of Health and Human Services (HHS).** Oversight hearing with the HHS Secretary to discuss priorities for the 112<sup>th</sup> Congress and concerns related to the delivery of health services and reimbursement under Medicare. Specifically, discuss and consider legislative and administrative proposals contained in the President's fiscal year 2012 and 2013 budgets.
- **Medicare Part A and Part B (Fee-for-Service Providers).** Oversight of the major Medicare programs to ensure efficient use of resources, quality of care, and access to providers for Medicare beneficiaries. Specific topics include: adequacy and appropriateness of provider reimbursements, including incentive payments; program benefits; cost sharing; workforce supply; the doctor-patient relationship; treatment of specific populations such as people with disabilities and low-income beneficiaries; quality improvement efforts; implementation of recently enacted Medicare legislation

and regulations; and waste, fraud, and abuse activities.

- **Medicare Advantage.** Oversight of Medicare health plans, including: enrollment; reimbursements; benefit packages; quality; beneficiary choice; and recent statutory and regulatory changes affecting Medicare health plans and their enrollees.
- **Medicare Part D (Prescription Drug Plans).** Oversight of the Medicare prescription drug program, including: drug pricing; beneficiary premiums and cost-sharing; beneficiary choice; impacts of recently enacted legislation and regulations and their impact on the Part D program; and access to retiree prescription drug coverage.
- **Medicare Entitlement.** Oversight of program changes on the Medicare Trust Funds; premium and copay levels; and benefit design.
- **CMS Administration.** Oversight of Centers for Medicare and Medicaid Service (CMS), including issuance of regulations and their impact on Medicare providers and beneficiaries; the adequacy and use of CMS' budget and staff; contracting activities; communications with beneficiaries; adherence to the Administrative Procedures Act; and general agency accountability.
- **Private Health Insurance Coverage.** Oversight and review of private health coverage, including: cost, access, subsidies to purchase insurance, benefit design, coverage options, pooling mechanisms, and employer-sponsored benefits; COBRA; Health Coverage Tax Credit (HCTC); health savings accounts and flexible spending arrangements; options to reduce the cost of health coverage, expand coverage, and address the rate of increase in health care costs; the impact of recently enacted legislation and regulations on those with private insurance, employers, the economy, and state budgets; and adherence to the Administrative Procedures Act.

#### **Matters under the Committee's Human Resources Jurisdiction:**

- **Welfare Reform.** Review and consider proposals to reauthorize the Temporary Assistance for Needy Families (TANF) program and related welfare reform programs. Examine barriers to increasing self-sufficiency among low-income families with children, and how changes to TANF and related programs may better address the needs of adult beneficiaries who face barriers to employment. Review the role that related programs such as child care and child support enforcement play in facilitating economic opportunity for low-income families.
- **Unemployment Compensation.** Provide oversight of the nation's unemployment compensation benefits and employment security systems, with a focus on reforms that could better assist beneficiaries in returning to work.
- **Child Welfare.** Provide oversight of the nation's child welfare programs, including foster care, adoption assistance, and child and family service programs under Titles IV-B and IV-E of the Social Security Act. Review State efforts to implement new statutory and regulatory requirements under the *Fostering Connections to Success and Increasing Adoptions Act*, including providing assistance to relatives to care for children and improving the oversight of the health and educational needs of foster children. Consider proposals for reauthorizing several child welfare services programs whose authorization expires at the end of FY 2011, as well as proposals designed to improve the financing of child welfare programs and to reduce abuse and neglect of at-risk children.
- **Low-Income Disabled and Aged Individuals.** Provide oversight of the Supplemental Security Income (SSI) program to examine trends in the program, agency program integrity efforts, and options to reduce administrative complexities in order to target program resources to those most in need.

#### **Matters under the Committee's Social Security Jurisdiction:**

- **Strengthening Social Security.** Examine how Social Security programs are meeting the needs of today's and tomorrow's beneficiaries, along with the financial challenges

facing the program and proposals to strengthen Social Security.

- **Stewardship of Social Security Programs.** Provide oversight of the management and performance of Social Security programs, including their potential vulnerability to waste, fraud, and abuse, and to explore necessary legislative remedies.
- **Use of the Social Security Number (SSN).** Examine the integrity and protection of SSNs by the Social Security Administration (SSA) and, the use of SSNs and Social Security cards as identifiers and in identity theft and other fraud, along with options for change.
- **Challenges Facing the Disability Insurance (DI) Program.** Provide oversight of the DI program including: assessing the effectiveness of return to work programs, efforts to improve disability claims processing and service delivery, and examining the growth of and options to strengthen the DI program.
- **SSA's Information Technology (IT) Infrastructure.** Assess the effectiveness of the SSA's IT infrastructure, including its management, performance, and strategic planning for future programs and systems development.
- **Service Delivery.** Oversight of the SSA's service to the public during a time of fiscal constraint and evolving service delivery approaches.

**Matters under the Committee's Trade Jurisdiction:**

- **Signed Trade Agreements with Colombia, Panama, and South Korea.** Oversight of the three signed and pending trade agreements, with focus on setting a clear path forward to consider all three agreements early in 2011.
- **China.** Oversight of systemic problems in U.S.-China trade relations, including issues related to China's consistent lack of protection and enforcement of U.S. intellectual property rights, indigenous innovation requirements, use of industrial subsidies, export restraints on key products such as rare earth minerals, and currency undervaluation.
- **Other Bilateral and Regional Negotiations.** Oversight of ongoing bilateral and regional negotiations including the Trans-Pacific Partnership. Evaluate prospect for additional trade and investment agreement negotiations.
- **Preference Programs.** Oversight of major U.S. trade preference programs, such as the Generalized System of Preferences, African Growth and Opportunity Act, Caribbean Basin Initiative, Andean Trade Preference Act, and Haitian Hemispheric Opportunity Through Partnership Encouragement Act. Evaluate efficacy of programs and address possible improvements.
- **World Trade Organization ("WTO").** Oversight of U.S. goals. Evaluation of reasons for the current stalemate in WTO negotiations and consideration of proposals to break impasse and achieve meaningful outcome in all areas. Oversight of accessions to the WTO, including Russia.
- **Enforcement.** Oversight of U.S. enforcement of WTO rights and rights under trade agreements. Evaluation of proposals to strengthen border enforcement related to U.S. intellectual property rights, import safety, and illegal transshipment. Oversight of administration of U.S. trade remedy laws, including border enforcement. Oversight of whether the United States is in compliance with its obligations, particularly where the United States is facing retaliation.
- **Implemented Trade Agreements.** Oversight of implemented agreements involving Peru, Central America/the Dominican Republic, Oman, Bahrain, Singapore, Chile, Australia, Morocco, Jordan, the North American Free Trade Agreement ("NAFTA"), and Israel.
- **Trade Adjustment Assistance.** Renew and provide continued oversight concerning the Trade Adjustment Assistance programs for Workers, Firms, Communities, and Farmers.

- **Priorities of U.S. Customs and Border Protection (CBP)**. Oversight concerning customs revenue functions and trade facilitation, including enforcement of U.S. trade and customs laws and regulations. Consider proposals related to CBP's capacity, resources, and organizational structure to carry out its mandate.
- **Miscellaneous Tariff Bill ("MTB")**. Continue work concerning noncontroversial bills to eliminate or reduce duties on products not made in sufficient quantities in the United States, in accordance with Committee guidelines and House Rules.
- **Priorities of the Office of the United States Trade Representative**. Oversight hearing with the United States Trade Representative to discuss priorities for the 112<sup>th</sup> Congress and concerns related to the international trade agenda.
- **Priorities of the United States International Trade Commission**. Oversight over the Commission concerning overall priorities and operations.

This list is not intended to be exclusive. The Committee anticipates that additional oversight hearings and activities will be scheduled as issues arise and as time permits. Also, the Committee's oversight priorities and particular concerns may change as the 112<sup>th</sup> Congress progresses over the coming 18 months.

Sincerely,

DAVE CAMP, *Chairman*

## B. ACTIONS TAKEN AND RECOMMENDATIONS MADE WITH RESPECT TO OVERSIGHT PLAN

### *Subcommittee on Oversight*

#### *A. Subcommittee Hearings for 112<sup>th</sup> Congress*

##### 1. Reducing Health Care Fraud

###### *Actions Taken:*

On March 2, 2011, the Oversight Subcommittee received testimony on improving efforts to combat health care fraud from (i) Peter Budetti, M.D., Deputy Administrator and Director, Center for Program Integrity, Centers for Medicare and Medicaid Services; (ii) Lewis Morris, Chief Counsel, Office of Inspector General; (iii) Karen Ignagni, President and CEO, America's Health Insurance Plans; (iv) Louis Saccoccio, Executive Director, National Health Care Anti-Fraud Association; and (v) Aghaegbuna "Ike" Odelugo, who pled guilty to state and federal charges related to nearly \$10 million in Medicare fraud.

The hearing focused on current policies and programs designed to prevent and punish Medicare fraud, as well as new and innovative practices aimed at preventing health care fraud used in the private sector. Health care fraud costs the American taxpayer tens of billions of dollars every year, significantly increasing Medicare spending. As a GAO-designated "high-risk" program since 1990, Medicare continues to attract those who defraud the government through kickbacks, identity theft, and billing for services and equipment beneficiaries never receive or do not need.

The Subcommittee explored how the public sector and private sector could learn from each other about new tools to combat health care fraud, waste, and abuse. The witnesses testified about the latest efforts to reduce Medicare fraud, including various data matching techniques.

##### 2. IRS Operations and the 2011 Tax Return Filing Season

*Actions Taken:*

On March 31, 2011, the Oversight Subcommittee received testimony concerning the Internal Revenue Service operations and the 2011 tax return filing season from The Honorable Douglas Shulman, Commissioner, Internal Revenue Service. The Subcommittee considered (1) the protection of taxpayer rights, (2) fairness in tax examinations and tax administration, (3) IRS efforts to prevent tax fraud, waste, and abuse, and (4) the 2012 budget proposal for the IRS and the requested increases over the fiscal year 2010 enacted level. The Commissioner's testimony focused on IRS e—filing initiatives, taxpayer outreach and education initiatives, and the agency's budget request.

On November 22, 2010, the Subcommittee requested that GAO monitor and assess the Internal Revenue Service's performance during the 2011 tax return filing season, with an emphasis on the IRS' efforts to streamline returns processing, improve taxpayer service, and enhance compliance. The GAO's report, which was released at the hearing, found that while the IRS had made progress in improving access to electronic tax administration, more needed to be done to address taxpayer noncompliance and improve taxpayer service. The GAO report also highlighted the need for IRS to provide actual performance results of its various enforcement initiatives in order to better assess agency resources.

### 3. AARP's Organizational Structure and Finances

*Actions Taken:*

On April 1, 2011, the Subcommittee on Oversight and the Subcommittee on Health received testimony on AARP's organizational structure and finances from (i) A. Barry Rand, Chief Executive Officer, AARP Accompanied by Lee Hammond, President, AARP Board of Directors; (ii) William Josephson, J.D., Of Counsel Fried, Frank, Harris, Shriver & Jacobson LLP; and (iii) Frances R. Hill, J.D., Ph.D, Professor, University of Miami School of Law. The hearing focused on AARP's organizational structure, management, and financial growth over the last decade.

### 4. Transparency and Funding of State and Local Pensions

*Actions Taken:*

On May 5, 2011, the Oversight Subcommittee received testimony on the transparency and funding of state and local pension plans from (i) The Honorable Walker Stapleton, Colorado State Treasury; (ii) Josh Barro, Walter B. Wriston Fellow, Manhattan Institute for Policy Research; (iii) Jeremy Gold, FSA, CERA, MAAA, PhD, Jeremy Gold Pensions; (iv) Robert Kurtter, Managing Director, U.S. Public Finance, Moody's Investors Service; and (v) Iris J. Lav, Senior Advisor, Center on Budget and Policy Priorities.

The hearing focused on the measurement and transparency of funding levels of State and local pension plans and explored whether improvements to those plans' actuarial assumptions – and enhanced transparency in the reporting of the financial health of those plans – are warranted.

Among the approaches to these issues that the Subcommittee reviewed was the "Public Employee Pension Transparency Act" (H.R. 567). The legislation, sponsored by Ways and Means Committee member Devin Nunes (R-CA), is intended to enhance transparency in this area by encouraging public plans to disclose: (1) various plan funding data using their own actuarial assumptions, including a statement of those assumptions, and (2) the fair market value of plan assets and the value of plan liabilities using Treasury yields as the discount rate. State and local governments failing to make the disclosures proposed under the bill would lose their ability to issue debt that is tax-preferred under Federal income tax law.

## 5. Improper Payments in the Administration of Refundable Tax Credits

### *Actions Taken:*

On May 25, 2011, the Oversight Subcommittee received testimony on improper payments in the administration of refundable tax credits from (i) Steven Miller, Deputy Commissioner for Services and Enforcement, Internal Revenue Service; (ii) The Honorable J. Russell George, Treasury Inspector General for Taxpayer Administration, U.S. Department of the Treasury, accompanied by Mike McKenney, Assistant Inspector General for Audit; (iii) Michael Brostek, Director, Tax Policy and Administration, Strategic Issues, GAO; and (iv) Nina E. Olson, National Taxpayer Advocate, Internal Revenue Service.

The Subcommittee examined the administration of refundable tax credits, with an emphasis on the estimated \$106 billion in improper payments attributable to refundable credits and the steps the IRS is taking, and plans to take to reduce the level of waste, fraud, and abuse related to refundable credits. In response to numerous reports issued by the Treasury Inspector General for Tax Administration and the GAO, on February 11, 2011, Chairman Camp and Subcommittee Chairman Boustany sent a letter to the IRS regarding the high levels of abuse of the Earned Income Tax Credit (EITC)– as much as \$83.9 billion since 2002. The IRS agreed that the level of improper payments related to the Earned Income Tax Credit is a significant problem the agency is facing and noted that it was implementing a new approach targeting paid return preparers to reduce preparer fraud and improper payments.

According to the Commissioner, over 60 percent of EITC returns are from paid tax return preparers and the IRS has commenced a paid return preparer initiative that imposes registration and competence requirements on paid preparers, in an effort to increase oversight of these preparers and reduce erroneous refund claims. The IRS is also enforcing due diligence requirements through correspondence audits of return preparers and due diligence office visits, in an effort to reduce the level of improper payments. To date, the

IRS has sent 10,000 return preparer notices and conducted more than 1,000 due diligence visits in an effort to curb refundable credit abuse.

## 6. Social Security's Payment Accuracy

### *Actions Taken:*

On June 14, 2011, the Subcommittees on Oversight and Social Security held a hearing on the Accuracy of Payments Made by the Social Security Administration (SSA). The Subcommittees heard testimony from the following witnesses: (i) Carolyn Colvin, Deputy Commissioner, Social Security Administration, (ii) Patrick P. O'Carroll, Jr., Inspector General, Social Security Administration, (iii) Dan Bertoni, Director, Education, Workforce and Income Security Issues, U.S. Government Accountability Office, (iv) Ann P. Robert, Deputy Director, Bureau of Disability Determination Services, Illinois Department of Human Services, on behalf of the National Council of Disability Determination Directors, and (v) Joseph Dirago, President, National Council of Social Security Management Associations.

Payment errors in Social Security programs impact the Social Security Trust Funds, while Supplemental Security Income (SSI) errors impact general revenues. In FY 2010, the combined error rate for Social Security programs was 0.6 percent, with a total of \$2.7 billion in overpayments and \$1.8 billion in underpayments. SSI, with its more complicated eligibility rules, had an error rate of 9.1 percent, with \$3.3 billion in overpayments and \$1.2 billion in underpayments. Because the disabled generally receive government health benefits, the government also sometimes incurs improper Medicare and Medicaid payments in these cases or does not provide Medicare and Medicaid to eligible beneficiaries. The Social Security Administration (SSA) has a total of at least \$15 billion in total debt outstanding due the agency. Continuing Disability Reviews (CDRs) and SSI redeterminations are the major integrity program tools the agency uses to make sure the correct payments are going to the

correct person on time and in the correct amounts. CDRs save between \$12 and \$15 for every \$1 spent conducting the review, while SSI redeterminations return \$7 for every dollar spent. The witnesses discussed Social Security's efforts to improve payment accuracy for the Old Age and Survivors Insurance (OASI), DI, and SSI programs, including the backlogs associated with these efforts and how these backlogs might be reduced to better protect taxpayer dollars.

## 7. Implementation of the IRS Paid Tax Return Preparer Program

### *Actions Taken:*

On July 28, 2011, the Oversight Subcommittee held a hearing on the new IRS paid tax return preparer program. The Subcommittee heard testimony from the following witnesses: (i) David Williams, Director of the IRS Return Preparer Office, at the Internal Revenue Service; (ii) Jim White, Director of Strategic Issues at the U.S. Government Accountability Office; (iii) Kathy Pickering, Vice President – Government Relations and Executive Director of the Tax Institute at H&R Block; (iv) Patricia Thompson, Chair of the AICPA Tax Executive Committee at the American Institute of Certified Public Accountants; (v) Paul Cinquemani, Director of Member Services, Business Development, and Government Relations at the National Association of Tax Professionals; (vi) Lonnie Gary, EA, United States Tax Court Professional, Chair of the National Association of Enrolled Agents Government Relations Committee; and (vii) David Rothstein, Researcher at Policy Matters Ohio, and Research Fellow at The New America Foundation.

The hearing explored the new requirements on paid return preparers, assessed IRS progress in preparing and implementing a program work plan, and examined how the program will ultimately impact the tax return preparer community and taxpayers.

Approximately sixty percent of taxpayers pay a professional to prepare their Federal income tax returns, and the Government Accountability Office (GAO) estimates that errors by tax return preparers affected an estimated \$106 billion in improper refundable tax credits in recent years. In light of these concerns, the IRS initiated a tax return preparer initiative to monitor and improve the accuracy of professionally prepared tax returns. While IRS defended its handling of the program, other witnesses emphasized the challenges IRS faced in implementing the paid return preparer program. Some witnesses were concerned that the program duplicated existing testing and compliance programs, and that the planned testing would not include complicated tax forms. GAO expressed concerns that IRS lacked a sufficient documented framework to guide its overall effort.

## 8. Energy Tax Policy and Tax Reform

### *Actions Taken:*

On September 22, 2011, the Subcommittee on Select Revenue Measures along with the Subcommittee on Oversight, received testimony on the intersection of energy policy and tax policy, with a focus on the dual priorities of comprehensive tax reform and a sustainable energy policy that addresses our economic, security, and environmental needs from (i) The Honorable J. Russell George, Inspector General, Treasury Inspector General for Tax Administration; (ii) Richard E. Byrd, Jr., Commissioner, Wage and Investment Division, Internal Revenue Service; (iii) Donald B. Marron, Director, Tax Policy Center, The Urban Institute; (iv) Kevin Book, Managing Director, Research, Clearview Energy Partners, LLC; (v) Neil Z. Auerbach, Founder and Managing Partner, Hudson Clean Energy Partners, L.P.; (vi) Will Coleman, Partner, Mohr Davidow Ventures; (vii) Tim Greeff, Political Director at the Clean Economy Network; (viii) Andrew J. Littlefair, President and Chief Executive Officer of Clean Energy Fuels; (ix) Lawrence B. Lindsey, President and Chief Executive Officer of The Lindsey Group; (x) Calvin Dooley, President and Chief Executive Officer of the American Chemistry Council; (xi) David W. Kreutzer, Research Fellow in Energy Economics and Climate Change of The Heritage Foundation; and (xii) Hank Ziomek, Director of Sales, Titeflex Corporation.

## 9. Implementation of Small Business Health Insurance Tax Credit

### *Actions Taken:*

On November 15, 2011 the Subcommittee on Oversight held a hearing on the implementation and effectiveness of the Small Business Health Insurance Tax Credit. The Subcommittee heard testimony from (i) The Honorable J. Russell George, Inspector General, Treasury Inspector General for Tax Administration, (ii) Sarah Ingram Hall, Commissioner for the Tax Exempt & Government Entities Division, Internal Revenue Service, (iii) Patricia Thompson, Chair of the Tax Executive Committee of the American Institute of Certified Public Accountants, (iv) Todd McCracken, President of the National Small Business Association, and (v) Matthew Hisel, Co-Director of Home Resource, a Montana-based tax-exempt organization.

The credit covers 35 percent of an eligible small employer's contribution to employee health insurance premiums for each tax year from 2010 to 2013. For tax years 2014 and beyond, an eligible small employer may claim the credit for up to 50 percent of its employee health insurance contributions, but only for two consecutive years. The credit generally is available to employers with no more than 25 full-time equivalent employees employed during the tax year, and whose employees have average annual wages of no more than \$50,000.

Enacted along with the Affordable Care Act (ACA), the credit was designed to encourage small businesses to provide health care coverage to employees. Although supporters of the ACA argued that the credit would provide meaningful assistance to the small business community and lead to increased coverage for employees, many in the small business community argue the credit is too limited and its calculation is too complex to be of value. A recent report by the Treasury Inspector General for Tax Administration found that 309,000 taxpayers took advantage of the credit as of May 2011. The Administration earlier estimated that four million employers would be eligible.

## 10. Harbor Maintenance Funding and Maritime Tax Issues

### *Action Taken:*

On February 1, 2012, the Subcommittee on Oversight and the Subcommittee on Select Revenue Measures received testimony from (i) The Honorable Michael Strain, Commissioner of the Louisiana Department of Agriculture & Forestry; (ii) Mr. Gary LaGrange, President and Chief Executive Officer of the Port of New Orleans; (iii) Mr. Steven A. Fisher, Executive Director, American Great Lakes Ports Association; (iv) Mr. Morten Arntzen, President and Chief Executive Officer, Overseas Shipholding Group; (v) Mr. James C. McCurry, Jr., Director of Administration, Georgia Ports Authority; and (vi) Mr. Michael Leone, Port Director, Massachusetts Port Authority. The hearing examined the structure of the Harbor Maintenance Trust Fund and the Harbor Maintenance Tax, and considered whether U.S. anti-deferral rules inhibit the expansion of the U.S. shipping industry.

## 11. Internal Revenue Service Operations and the 2012 Tax Return Filing Season

### *Action Taken:*

On March 22, 2012, the Subcommittee received testimony from The Honorable Douglas Shulman, Commissioner, Internal Revenue Service. The hearing focused on the 2012 tax return filing season, the IRS' 2013 budget request, and IRS operations generally.

## 12. Impact of Limitations on the Use of Tax-Advantaged Accounts for the Purchase of Over-the-Counter Medication

*Action Taken:*

On April 25, 2012, the Subcommittee received testimony from (i) Mr. Scott M. Melville President & Chief Executive Officer, Consumer Healthcare Products Association; (ii) Dr. Joel M. Feder, D.O., F.A.C.O.F.P., Captain MC, USN (Ret.), American Osteopathic Association; (iii) Mr. Steven Taylor, Chief Executive Officer, Sjogren's Syndrome Foundation; (iv) Ms. Jennifer Hatcher, Senior Vice President, Government & Public Affairs, Food Marketing Institute; and (v) Mr. Paul N. Van de Water, Senior Fellow, Center on Budget and Policy Priorities. The hearing focused on reviewing the restrictions imposed under the Patient Protection and Affordable Care Act (P.L. 111-148) to FSAs, HSAs and HRAs to purchase over-the-counter medicine, and the impact the rules have on consumers, physicians, and employers.

## 13. Identity Theft and Tax Fraud

*Action Taken:*

On May 8, 2012, the Subcommittees on Oversight and Social Security received testimony from: (i) J. Russell George, Treasury Inspector General for Tax Administration; (ii) Patrick P. O'Carroll, Jr., Inspector General, Social Security Administration; (iii) Steven T. Miller, Deputy Commissioner for Services and Enforcement, Internal Revenue Service; (iv) Nina E. Olson, National Taxpayer Advocate, Internal Revenue Service; and (v) David F. Black, General Counsel, Social Security Administration. The hearing detailed how the Social Security Administration's court-mandated sharing of the Social Security Death Master File (DMF) inadvertently provides criminals with the tools to file for and obtain multiple fraudulent tax refunds, and the processes the Internal Revenue Service (IRS) is using in its attempts to detect and stop illegal refunds. Witnesses emphasized the conflicting missions of the IRS to quickly process refunds while also protect the tax system from ID theft and fraud. Additionally, witnesses supported legislation limiting public access to the DMF (which includes the Social Security numbers of those who are deceased that are used for false filings), including a discussion on Subcommittee on Social Security Chairman Sam Johnson's bill, H.R. 3475, the "Keeping IDs Safe Act of 2011" to end the Social Security Administration's Public Death Master File publication, allowing the IRS access to the National Directory of New Hires, and reauthorizing legislation that permits prisoner information to be shared with the IRS.

## 14. Tax-Exempt Organizations

*Action Taken:*

On May 16, 2012, the Subcommittee received testimony from (i) Mr. Roger Colinvaux, Associate Professor, Columbus School of Law, The Catholic University of America; (ii) Ms. Diana Aviv, President & Chief Executive Officer, Independent Sector; (iii) Ms. Joanne M. DeStefano, Vice President for Finance and Chief Financial Officer, Cornell University, testifying on behalf of the National Association of College and University Business Officers; (iv) Mr. Michael Regier, Senior Vice President of Legal and Corporate Affairs, VHA Inc.; and (v) Mr. Bruce R. Hopkins, Senior Partner, Polsinelli Shughart. The hearing focused on current issues related to tax-exempt organizations, including the ongoing IRS compliance initiative related to universities, recently enacted reporting requirements for tax-exempt hospitals, recent efforts by tax-exempt organizations to design and implement good governance standards, and the newly redesigned IRS Form 990. In addition, the hearing considered the history of recent legislative changes to the tax code dealing with tax-exempt organizations and what prompted those changes.

*Subcommittee on Trade*

## 1. Trade Agreements with Colombia, Panama, and South Korea.

*Action taken:*

The Committee held a hearing on January 25, 2011, on Congressional consideration of the trade agreements with Colombia, Panama, and South Korea, and the benefits these agreements will bring to American businesses, farmers, workers, consumers, and the U.S. economy. On January 27, 2011, Chairman Camp requested that the International Trade Commission (ITC) conduct a study assessing the supplemental autos agreement reached by USTR with South Korea, and the ITC released that report publicly on April 7, 2011. On February 9, 2011, the Committee held a hearing focusing on current trade issues including the trade agreements with Colombia, Panama, and South Korea. United States Trade Representative Ron Kirk testified. The Subcommittee on Trade also held a hearing on March 17, 2011 on the trade agreement with Colombia; on March 30, 2011 on the trade agreement with Panama; and on April 7, 2011 on the trade agreement with South Korea. On July 7, 2011, the Committee on Ways and Means considered, and approved, in an informal mark-up session, draft legislation to implement the trade agreements with Colombia, Panama, and South Korea and draft statements of administration action. On October 3, 2011, three separate bills were introduced (by request) to implement each of the trade agreements with Colombia, Panama, and South Korea. On October 6, 2011, the Committee held a formal mark-up session to consider all three bills. The Committee approved all three bills and favorably reported them without amendment. On October 12, 2011, the House passed all three bills. Also on October 12, 2011, the Senate passed all three bills. The President signed all three bills into law on October 21, 2011.

On April 18, 2011, Chairman Camp led a bipartisan delegation of Members to Bogota, Colombia to evaluate the status of the agreement and progress taken by Colombia on labor issues.

The House and Senate passed bills to implement all three trade agreements on October 12, 2011, which were signed into law by the President on October 21, 2011.

From that time until entry into force of the U.S.-Korea Free Trade Agreement (March 15, 2012) and U.S.-Colombia Trade Promotion Agreement (May 15, 2012), the Committee engaged in consultations with the Administration to provide oversight and to ensure prompt implementation of both agreements, as well as the U.S.-Panama Trade Promotion Agreement, which has not yet entered into force. The Committee continues to work with USTR and the Panamanian government to ensure prompt implementation of the Agreement.

On February 29, 2012, the Committee held a hearing on current trade issues, including on the Administration's work to ensure prompt implementation of the U.S.-Colombia Trade Promotion Agreement, the U.S.-Panama Trade Promotion Agreement, and the U.S.-Korea Free Trade Agreement.

## 2. China.

*Action taken:*

On February 9, 2011, the Committee held a hearing focusing on current trade issues, including the full range of issues impeding American companies from selling U.S. goods and services in China and distorting trade flows through unfair trade practices. United States Trade Representative Ron Kirk testified. On May 6, 2011, Chairman Camp led a letter signed by a majority of Committee Members to Secretaries Geithner, Clinton, and Locke, and Ambassador Kirk discussing systemic problems in U.S.-China trade relations, including issues related to China's consistent lack of protection and enforcement of U.S. intellectual property rights, indigenous innovation requirements, use of industrial subsidies, export restraints on key products such as rare earth minerals, and currency misalignment. In that

letter, the Members asked the Administration to develop metrics for assessing China's progress on these issues.

On May 10, 2011, Committee Members met with Vice Premier Wang Qishan to discuss the U.S.-China trade relationship.

On October 25, 2011, the Committee held a hearing focusing on the U.S.-China economic relationship, including both the significant opportunities presented by the Chinese market as well as the barriers that U.S. companies, farmers, and workers continue to face. The hearing explored the Administration's plans to address China's persistent barriers to trade and investment.

On November 17, 2011, all Members of the Committee sent a letter to Ambassador Kirk and Secretary Bryson highlighting the need to address longstanding and specific concerns, improve U.S. market access in China, use commercially meaningful metrics to measure the effectiveness of commitments, and further China's rebalancing of its economy.

On December 15, 2011, the Committee received the 2011 Annual Report on China's WTO Compliance, which was submitted pursuant to Section 421 of the U.S.-China Relations Act of 2000. The report describes China's WTO commitments and assesses the extent to which China has implemented those commitments.

On January 31, 2012, Chairman Dave Camp and Senate Finance Committee Chairman Max Baucus sent a letter to the Administration encouraging it to pressure China to stop unfairly undervaluing its currency at a World Trade Organization (WTO) symposium in March. In the letter, Camp and Baucus noted that China has actively blocked currency undervaluation discussions at the WTO and that China's unfair trade practices, including its currency undervaluation, cost U.S. jobs.

On February 29, 2012, the Committee held a hearing focusing on current trade issues, including concerns about China's unfair and distortive trade practices that impede American companies from selling U.S. goods and services in China. United States Trade Representative Ron Kirk testified.

On March 1, 2012, the Committee held a meeting with Treasury Secretary Geithner, Commerce Secretary Bryson, and United States Trade Representative Ambassador Kirk about the Administration's China economic policy. The meeting provided an opportunity for Committee Members to have a bipartisan and candid, off-the-record discussion with the Administration about its China economic policy.

On February 29, 2012, Chairman Dave Camp, Ranking Member Sander Levin, and 128 cosponsors introduced H.R. 4105, which would apply the countervailing duty law to nonmarket economy countries. On March 6, 2012, the House passed the bill under suspension of the rules. The Senate passed the bill by unanimous consent on March 7, 2012, and the President signed the bill into law on March 13, 2012.

On March 26-29, 2012, the Committee conducted a bipartisan staff delegation to Geneva, Switzerland, to participate in the Symposium on Exchange Rate Policies and Trade being hosted by the World Trade Organization (WTO) Working Group on Trade, Debt, and Finance and to meet with officials from other WTO member countries, WTO secretariat staff, and U.S. officials.

On April 27, 2012, Republican Members of the Ways and Means Committee, sent a letter to the Administration about the upcoming meeting of the U.S.-China Strategic & Economic Dialogue (S&ED). The letter highlighted key priorities for these meetings, including the need to address long-standing and specific concerns, improve U.S. market access in China, further China's rebalancing of its economy, and restart bilateral investment treaty negotiations.

The Committee has held regular staff consultations with USTR and the Treasury and Commerce Departments regarding U.S.-China issues.

### 3. Other Bilateral and Regional Negotiations and Issues.

#### *Action taken:*

##### a. Trans-Pacific Partnership

On February 9, 2011, the Committee held a hearing focusing on current trade issues, including the ongoing Trans-Pacific Partnership negotiations. United States Trade Representative Ron Kirk provided testimony.

On February 17, 2011, Chairman Camp and Ranking Member Levin, along with Senators Baucus and Hatch, sent a letter to the Administration regarding Taiwan's scientifically unjustified barriers to U.S. beef exports.

On November 8, 2011, Chairman Camp and Ranking Member Levin, along with Senators Baucus and Hatch, sent a letter to the Administration regarding Japan's expected announcement at the Asia Pacific Economic Cooperation (APEC) Summit in Honolulu to seek participation in the Trans-Pacific Partnership (TPP). The letter expressed concern about Japan's longstanding barriers to trade and the importance of strong disciplines to address non-tariff barriers.

On November 10-11, 2011, Trade Subcommittee Chairman Brady led a bipartisan Congressional delegation to the APEC Summit in Honolulu, Hawaii. The delegation met with numerous foreign trade ministers and private sector representatives to discuss the importance of increasing U.S. economic engagement in the Asia-Pacific region, the status of the TPP negotiations, and various bilateral issues.

On December 14, 2011, the Subcommittee held a hearing on the Trans-Pacific Partnership (TPP) negotiations. The Subcommittee received testimony from (i) Ambassador Demetrios Marantis, Deputy U.S. Trade Representative, Office of the United States Trade Representative; (ii) Devry S. Boughner, Director, International Business Relations on behalf of Cargill, Inc. and the U.S. Business Coalition for TPP; (iii) Angela Marshall Hofmann, Vice President, Global Integrated Sourcing and Trade Wal-Mart Stores; and (iv) Michael Wessel, President, The Wessel Group. The hearing focused on the status and future of the ongoing TPP agreement negotiations as well as the potential benefits of the agreement for U.S. companies, workers, and farmers. The hearing also explored how the TPP agreement will be a "21st century agreement" by addressing barriers to trade beyond tariffs and increasing trade facilitation.

On December 21, 2011, Chairman Camp and Chairman Brady, along with Senators Hatch and Thune, sent a letter to Ambassador Kirk raising concerns about the Administration's proposed labor provision for the TPP agreement.

On February 29, 2012, the Committee held a hearing on current trade issues, including the status of the TPP negotiations, the potential benefits of a TPP agreement from the United States, and the prospect for Canada, Japan and Mexico onto join the TPP negotiations. Ambassador Kirk testified before the Committee on the Administration's views on these issues.

The Committee has also held frequent staff consultation sessions with USTR to discuss ongoing progress in the negotiations and to provide Member views on the conduct and content of the negotiations.

##### b. Bolivia

On November 7, 2011, Chairman Camp sent a letter to Secretary Clinton and Ambassador Kirk expressing concerns about the Administration's plans to sign a new trade framework with Bolivia.

##### c. Burma

On May 26, 2011, Representative Joe Crowley introduced H.J. Res 66 to renew sanctions against Burma under the Burmese Freedom and Democracy Act of 2003, amended by the Tom Lantos Block Burmese JADE (Junta's Anti-Democratic Efforts) Act of 2008. On

July 20, 2011, the House passed H.J. Res. 66, to renew sanctions against Burma, under suspension of the rules. On September 30, 2011, the House passed H.R. 2017, "*Continuing Appropriations Act, 2012*," which included the text of H.J. Res. 66. The President signed H.R. 2017 into law on September 30. On October 4, 2011, the House passed H.R. 2608, as amended by the Senate, by a recorded vote of 352-66. The President signed H.R. 2608 into law on October 4, 2011. The sanctions on Burma were renewed effective July 26, 2011 by both H.R. 2017 and H.R. 2608.

On July 28, 2011, the Committee received a report from the Department of State on Burma's timber trade, pursuant to the Lantos Block Burmese JADE Act.

On May 28, 2012, Representative Joe Crowley introduced H.J. Res 109 to renew sanctions against Burma under the Burmese Freedom and Democracy Act of 2003, amended by the Tom Lantos Block Burmese JADE (Junta's Anti-Democratic Efforts) Act of 2008. The sanctions on Burma will expire on July 27, 2012, so Committee action will be required to reauthorize the sanctions.

d. Iran

On August 23, 2011, the Committee received reports from the Department of State on global trade relating to Iran.

On October 3, 2011, the Committee received a report from the Department of State on investments in the energy sector in Iran.

On September 19, 2011, and October 17, 2011, the Committee received reports from the Department of Treasury on activities taken by the Treasury Department Office of Foreign Assets Control in the Administration of the licensing regime set forth in 906(a)(1) of the Act with respect to exportation in agricultural commodities, medicine, medical devices to Iran and Sudan.

On December 5, 2011, Chairman Camp exchanged letters with House Foreign Affairs Committee Chairman Ros-Lehtinen regarding removal of provisions within the jurisdiction of the Committee on Ways and Means from H.R. 2105, the "*Iran, North Korea, and Syria Nonproliferation Reform and Modernization Act of 2011*."

On December 5, 2011, Chairman Camp exchanged letters with House Foreign Affairs Committee Chairman Ros-Lehtinen regarding removal of provisions within the jurisdiction of the Committee on Ways and Means from H.R. 1905, the "*Iran Sanctions, Accountability, and Human Rights Act of 2012*."

On March 12, 2012, the Committee received the Department of State Report on Iran Sanctions.

On March 28, 2012, the Committee received the Department of State Comprehensive Report on Iran Sanctions.

#### 4. Preference Programs.

*Action taken:*

On February 10, 2011, Chairman Camp introduced H.R. 622 to extend the Andean Trade Preference Act. On October 3, 2011, House Majority Leader Eric Cantor introduced, for himself and Representative Sam Farr (both by request), H.R. 3078, the "*United States-Colombia Trade Promotion Agreement Implementation Act*," which included an extension of the Andean Trade Preference Act. On October 6, 2011, the Committee held a formal mark-up session to consider H.R. 3078. The Committee approved the bill and favorably reported H.R. 3078, without amendment. On October 12, 2011, the House passed the bill. Also on October 12, 2011, the Senate passed the bill. The President signed H.R. 3078 into law on October 21, 2011.

On July 22, 2011, the Committee received USITC Report on Investigation No. 332-503, Earned Import Allowance Program: Evaluation of the Effectiveness of the Program for Certain Apparel from the Dominican Republic. This is the second annual report.

On August 2, 2011, Chairman Camp introduced H.R. 2832, "To extend the Generalized System of Preferences, and for other purposes," which included a reauthorization of the Generalized System of Preferences. On August 7, 2011, the House suspended the rules and passed H.R. 2832 by voice vote. On August 21, 2011, the Senate passed an amended version. On October 12, 2011, the House agreed to the Senate amendment. On October 21, 2011, the President signed H.R. 2832 into law.

On November 30, 2011, the Committee received a report from the Government Accountability Office on the Earned Import Allowance Program for Haiti. GAO is required by statute to review and evaluate the program annually.

On March 26, 2012, the President announced his decision to add South Sudan to the list of beneficiaries of the Generalized System of Preferences and to suspend Argentina's eligibility from the program.

The Committee has held several staff consultations with USTR concerning the efficacy of the preference programs, including the Generalized System of Preferences, the Caribbean Basin Initiative, the Andean Trade Preference Act, the Africa Growth and Opportunity Act, and the Haitian Hemispheric Opportunity through Partnership Encouragement Act.

#### 5. World Trade Organization ("WTO").

##### *Action taken:*

On February 9, 2011, the Committee held a hearing focusing on current trade issues, including the prospect for trade expansion in agriculture, industrial goods, and services through the Doha Round negotiations at the WTO and the issues surrounding Russia's effort to accede to the WTO. United States Trade Representative Ron Kirk testified.

On September 14, 2011, the Committee received a letter from USTR, pursuant to Section 123(g)(1)(d) of the Uruguay Rounds Agreement Act, notifying the Committee of USTR's intention to implement regulations to come into compliance with rulings of the Dispute Settlement Body of the World Trade Organization in connection with the following disputes: *United States – Laws, Regulations, and Methodology for Calculating Dumping Margins* (WT/DS294); *United States – Measures Related to Zeroing and Sunset Reviews* (WT/DS322); *United States – Final Anti-Dumping Measures on Stainless Steel from Mexico* (WT/DS344); and *United States – Continued Existence and Application of Zeroing Methodology* (WT/DS350). The Committee held several discussions with USTR regarding compliance with these rulings.

On October 31, 2011, Chairman Camp and Ranking Member Levin, along with Senators Baucus and Hatch, sent a letter to the Administration regarding Russia's accession to the WTO. The letter explained the importance for Russia's WTO accession agreement to adequately address a number of issues of concern.

On December 14-18, 2011, the Committee conducted a bipartisan staff delegation to the Eighth Ministerial Conference of the World Trade Organization in Geneva, Switzerland. The staffdel participated in the Ministerial Conference, including meetings with trade ministers from WTO member countries, U.S. officials, and business leaders.

On February 29, 2012, the Committee held a hearing on current trade issues, including Russia's accession to the WTO, WTO negotiations, and "post-Doha" issues such as an international services trade agreement, Information Technology Agreement (ITA) expansion, and a trade facilitation agreement. Ambassador Kirk testified before the Committee on the Administration's views on these issues.

On March 26-29, 2012, the Committee conducted a bipartisan staff delegation to Geneva, Switzerland, to participate in the Symposium on Exchange Rate Policies and Trade being hosted by the World Trade Organization (WTO) Working Group on Trade, Debt, and Finance and to meet with officials from other WTO member countries, WTO secretariat staff, and U.S. officials.

The Committee held regular staff consultations with USTR concerning the ongoing negotiations as well as accessions to the WTO. The Committee also held regular staff consultations with USTR regarding ongoing disputes being adjudicated at the WTO.

## 6. Enforcement.

### *Action taken:*

On February 29, 2012, the Committee held a hearing on current trade issues, including the full range of issues impeding American companies from selling U.S. goods and services abroad. In addition, the hearing addressed the management of trade disputes and other trade issues. Ambassador Kirk testified before the Committee on the Administration's views on these issues.

On February 9, 2011, the Committee held a hearing focusing on current trade issues, including the full range of issues impeding American companies from selling U.S. goods and services around the world, particularly China, and other trade disputes, including whether the United States is in compliance with its obligations, particularly where the United States is facing retaliation.

On March 1, 2011, the Committee received the 2012 Trade Policy Agenda and 2011 Annual Report of the President of the United States on the Trade Agreements Program. This report satisfies the requirements of Section 163 of the Trade Act of 1974, and Sections 122 and 124 of the Uruguay Round Agreements Act. On March 1, 2012, the Committee received the 2012 Trade Policy Agenda and 2011 Annual Report.

On March 30, 2011, and April 2, 2012, the Committee received the National Trade Estimate Report from USTR for 2011 and 2012, respectively, as well as separate reports on Technical Barriers to Trade and Sanitary and Phytosanitary Barriers to Trade. Each of the reports details significant barriers to U.S. exports and U.S. efforts to address those barriers. The NTE Report is prepared pursuant to Section 181 of the Trade Act of 1974, as amended. The Committee staff engaged in regular consultations with the Administration on these items.

On April 29, 2011, the Committee received the 2011 Special 301 Report on Intellectual Property Rights. The annual report reviews IPR protection and enforcement around the world and is prepared pursuant to Section 182 of the Trade Act of 1974, as amended. On April 30, 2012, the Committee received the 2012 report.

On May 23, 2011, Chairman Camp requested that the International Trade Commission conduct an analysis of the conditions of competition in the business jet industry, in particular barriers abroad faced by the U.S. industry and the role of government subsidies abroad. On May 30, 2012, Chairman Camp received the report from the International Trade Commission.

The Committee also held regular staff sessions with USTR to discuss pending and potential cases.

## 7. Implemented Trade Agreements.

### *Action taken:*

The Committee consulted closely with the Administration to ensure prompt entry into force of the recently implemented trade agreements with Colombia, Panama, and Korea.

On February 21, 2012, USTR Kirk sent the Committee a letter stating the Administration's intent to enter the U.S.-Korea trade agreement into force on March 15, 2012, and stating the Administration's commitment to address certain outstanding issues. The Agreement subsequently entered into force on March 15, 2012. On May 15, 2012, the U.S.-Colombia trade agreement entered into force. The Committee continues to work with USTR and the Panamanian government to ensure prompt implementation of the Agreement.

The Committee also continued its oversight of implemented agreements with Australia, Bahrain, Canada and Mexico, five of the countries of Central America and the Dominican Republic, Chile, Israel, Jordan, Morocco, Oman, Peru, and Singapore.

#### 8. Trade Adjustment Assistance.

##### *Action taken:*

The Committee continued its oversight and its assessment concerning the operation and renewal of the Trade Adjustment Assistance programs for Workers, Firms, Communities, and Farmers. On August 2, 2011, Chairman Dave Camp, for himself and for Ranking Member Sander Levin, Chairman Brady, and Ranking Member McDermott, introduced H.R. 2832, "*To extend the Generalized System of Preferences, and for other purposes.*" On August 7, 2011, the House passed H.R. 2832. On August 21, 2011, the Senate passed an amended version of H.R. 2832 including the Trade Adjustment Assistance Extension Act of 2011. On October 12, 2011, the House agreed to the Senate amendment. On October 21, 2011, the President signed H.R. 2832 into law.

On December 15, 2011, the Committee received the Department of Commerce TAA Annual Report for Fiscal Year 2011. On February 13, 2012, the Committee received the Department of Labor's report on the Trade Adjustment Assistance Community College and Career Training (TAACCCT) Grant Program for Fiscal Year 2011. On March 9, 2012, the Committee received the Department of Labor's Trade Adjustment Assistance Annual Report for Fiscal Year 2011.

#### 9. Priorities of U.S. Customs and Border Protection.

##### *Action taken:*

The Committee continued its oversight concerning customs revenue functions and trade facilitation, including enforcement of U.S. trade and customs laws and regulations. Monthly Committee staff sessions with Customs and Border Protection (CBP) have provided the Committee with valuable information concerning these issues as the Committee considered legislative proposals related to CBP's capacity, resources, and organizational structure to carry out its mandate and various other issues.

On October 18, 2011, the Committee received a report from CBP on regulations and significant rulings, as required by Department of Treasury Order No. 100-16 (68 Federal Register 28322-28323).

On May 10, 2012, Representative Charles Boustany introduced H.R. 5708 to prevent the evasion of antidumping and countervailing duty orders.

On May 17, 2012, the Subcommittee held a hearing on supporting economic growth and job creation through customs trade modernization, facilitation, and enforcement. The Subcommittee received testimony from (i) Mr. David Aguilar, Acting Commissioner, U.S. Customs and Border Protection, U.S. Department of Homeland Security; (ii) Mr. Kumar Kibble, Deputy Director U.S. Immigration and Customs Enforcement, U.S. Department of Homeland Security; (iii) Mr. Timothy Skud, Deputy Assistant Secretary for Tax, Trade and Tariff Policy, U.S. Department of the Treasury; (iv) The Honorable George Weise, Executive Vice President, Sandler & Travis Trade Advisory Services, (former Commissioner of

Customs), testifying on his own behalf; (v) Mr. Darrell Sekin, Jr., President and CEO, DJS International Services, and President, National Customs Brokers and Forwarders Association of America, Inc.; and (vi) Mr. Michael Mullen, Executive Director, Express Association of America.

#### 10. Miscellaneous Tariff Bill (“MTB”).

*Action taken:*

The Committee continued its work concerning noncontroversial bills to eliminate or reduce duties on products not made in sufficient quantities in the United States.

On December 15, 2011, Chairman Camp sent a letter to Congressman Mick Mulvaney responding to his inquiry as to when the 112<sup>th</sup> Congress MTB process would commence.

On March 30, 2012, Chairman Camp along with Ranking Member Levin, Chairman Brady, and Ranking Member McDermott announced the commencement of the Miscellaneous Tariff Bill (MTB) process, requiring Members to introduce bills by April 30, 2012. Due to the overwhelming Member interest in participating in the process, the Committee subsequently informed Members that they would meet the April 30 deadline if their draft bills were submitted to Legislative Counsel on April 30 and then introduced and submitted to the Ways and Means Committee online MTB submission process no later than on May 16, 2012. The Committee then announced on May 24, 2012, that it would accept public comments on the submitted bills until June 22, 2012. The Committee is also working with the ITC, Department of Commerce, CBP, and other federal agencies to ensure that each submitted bill undergoes a thorough vetting.

#### 11. Priorities of the Office of the United States Trade Representative.

*Action taken:*

Chairman Camp, together with Ranking Member Levin, Trade Subcommittee Chairman Brady, and Trade Subcommittee Ranking Member McDermott, sent a letter on May 25, 2011, to House Appropriators asking assurance of adequate resources for USTR.

The Committee held staff briefings with USTR to discuss its budget and priorities, including the recently created inter-agency enforcement center. The Committee also followed closely the Commerce, Justice, Science, and Related Agencies Appropriations Act, 2013 (H.R. 5326), which included USTR’s FY 13 appropriation and which passed the House on May 10, 2012.

The Committee continues to have regular consultations with USTR to discuss priorities.

#### 12. Priorities of the United States International Trade Commission.

*Action taken:*

The Committee continued its oversight over the Commission concerning overall priorities and operations, examining the Commission’s budget and financial statements and engaging in regular consultations with the agency. The Committee also followed closely the Commerce, Justice, Science, and Related Agencies Appropriations Act, 2013 (H.R. 5326), which included the ITC’s FY 13 appropriation and which passed the House on May 10, 2012.

#### *Subcommittee on Health*

##### *A. Full Committee Hearings*

On February 16, 2011, the full Committee received testimony on the Fiscal Year proposed budget for the Department of Health and Human Services (HHS) from Secretary Kathleen Sebelius. The hearing examined the Presidents' FY12 Budget proposal for the Department of HHS. The hearing also focused on the "Patient Protection and Affordable Care Act" (P.L. 111-148) and the "Health Care and Education Reconciliation Act of 2010" (P.L. 111-152).

### *B. Actions Taken*

1. On April 1, 2011, the Subcommittee on Health and the Subcommittee on Oversight received testimony on AARP's organizational structure and finances from (i) A. Barry Rand, Chief Executive Officer, AARP who was accompanied by, Lee Hammond, President, AARP Board of Directors; (ii) William Josephson, J.D., Of Counsel Fried, Frank, Harris, Shriver & Jacobson LLP; and (iii) Frances R. Hill, J.D., Ph.D, Professor, University of Miami School of Law. The hearing focused on AARP's organizational structure, management of its boards, and financial growth over the last decade. Of particular interest is AARP's reliance on revenue from insurance companies and the expected future financial growth based on recently- enacted AARP-endorsed legislation and how such growth may be influencing AARP's lobbying activities.

2. Letter to IRS regarding AARP's 501(3)(c) tax-exempt status. As a follow-up to the joint hearing between the Subcommittee on Health and the Oversight Subcommittee regarding the appropriateness of AARP's organizational structure, reliance on insurance revenue, and AARP's financial windfall from the Democrats' health care law, three Members of the Committee sent a letter to the IRS requesting a review of AARP's tax-exempt status. The requested review was based on a Congressional report detailing that AARP stands to gain an additional \$1 billion in revenues as a result of the law and in particular the one-half trillion dollars in Medicare cuts.

The IRS responded on May 26, 2011, that it received the letter and referred the request to its Exempt Organizations Examination office in Dallas, TX.

3. On February 7, 2012, the Subcommittee held a hearing on programs that reward physicians who deliver high quality and efficient care. The Subcommittee received testimony from (i) Lewis G. Sandy, MD, Senior Vice President, Clinical Advancement, UnitedHealth Group; (ii) David Share, MD, MPH, Vice President, Value Partnerships, Blue Cross Blue Shield Michigan (BCBSM); (iii) Jack Lewin, MD, Chief Executive Officer, American College of Cardiology; (iv) John L. Bender, MD, President & CEO, Miramont Family Medicine; and (v) Len Nichols, Director, Center for Health Policy Research and Ethics. The hearing focused on innovative quality and efficiency recognition and reward programs developed by physicians and private payers.

4. On April 27, 2012, the Subcommittee held a hearing on Medicare Premium Support Proposals. The Subcommittee received testimony from (i) The Honorable John B. Breaux, Senior Counsel, Patton Boggs LLP; (ii) Alice M. Rivlin, Ph.D., Senior Fellow, Economic Studies, Brookings; (iii) Joseph R. Antos, Ph.D., Wilson H. Taylor Scholar in Health Care and Retirement Policy, American Enterprise Institute; and (iv) Henry J. Aaron, Ph.D., Senior Fellow, Economic Studies, Brookings. The hearing reviewed the bipartisan support for implementing a premium support system in order to modernize the Medicare benefit while also improving the program's long-term financial solvency.

5. On May 9, 2012, the Subcommittee held a hearing on the Medicare Durable Medical

Equipment Competitive Bidding Program. The Subcommittee received testimony from (i) Laurence Wilson, Director of the Chronic Care Policy Group, Center for Medicare, Centers for Medicare and Medicaid Services; (ii) Kathleen King, Director, Health Care, Government Accountability Office; (iii) Joel D. Marx, Chair, Board of Directors, American Association for Homecare; (iv) H. Wayne Sale, Chair, Board of Directors, National Association of Independent Medical Equipment Suppliers; (v) Dino Martis, President, Ablecare Medical, Inc.; and (vi) Alfred J. Chiplin, Jr., Senior Policy Attorney, Center for Medicare Advocacy, Inc. The hearing focused on the impact of the DMEPOS competitive bidding program on beneficiaries, suppliers, and Medicare expenditures and the implications for program expansion.

### *C. Other Actions Taken*

1. Letter to HHS Secretary Sebelius regarding the Community Living Assistance Services and Support (CLASS) Act. The Subcommittee sent letter to HHS on April 13, 2011 requesting the Secretary explain what legal authority she was relying on to modify the CLASS Act in order to make the program actuarially sound. Secretary Sebelius responded June 3, 2011 without referring to any specific statutory provisions, but a more general reliance on the Administrative Procedures Act.

2. Letter to HHS Secretary Sebelius expressing concerns with the Secretary's letter on H.R. 1. On March 9, 2011, Chairman Camp sent a letter with Senate Finance Ranking Member Hatch criticizing HHS for its assertions regarding the impact of the House-passed Full-Year Continuing Appropriations Act and HHS' ability to run the Medicare Advantage program. Secretary Sebelius has yet to respond to this letter.

3. Letter to HHS Secretary Sebelius regarding the Medicare Advantage quality bonus demonstration program (MA QBP). Chairman Camp sent a letter with Senate Finance Ranking Member Hatch to Secretary Sebelius on April 13, 2011, outlining concerns with the Department's authority to enact the MA QBP. This demonstration program was authorized under Section 402 of the Social Security Act, which generally requires such demonstrations to be budget neutral. However, CMS actuaries estimated the actual cost of this demonstration to be \$8.3 billion over ten years. On May 26, 2011, CMS Administrator Don Berwick responded on behalf of Secretary Sebelius but did not address any of the questions raised by Chairman Camp and Senator Hatch.

4. Letter to President Obama requesting further information regarding his proposed Medicare and Medicaid savings plan. On April 20, 2011, Chairman Camp and Energy and Commerce Chairman Fred Upton wrote to President Obama requesting specific information regarding the Medicare and Medicaid savings the president included in an informal second budget proposal submission. The President announced that he would seek \$340 billion in savings from these programs by 2021, \$480 billion by 2023 and at least an additional \$1 trillion in the subsequent decade but provided little detail as to how the savings would be achieved or what he was basing the savings figures on. As of May 31, 2012, the White House has yet to respond to this letter.

5. Letter to HHS Secretary Sebelius on Administration Health Care Waivers. On May 24, 2011, Chairman Camp and Senate Finance Committee Ranking Member Hatch sent a letter to HHS Secretary Sebelius inquiring about the agency's protocol for reviewing and approving or denying requests for waivers from the new health laws requirements regarding health plans' annual limits on benefits. Chairman Camp and Senator Hatch expressed concern about the

lack of transparency in the waiver process and the failure to conduct appropriate outreach to companies who may be eligible for a waiver. HHS has yet to respond to this letter.

6. Letter to HHS Secretary Sebelius on Michigan's Medical Loss Ratio Waiver Request (HHS). On July 28, 2011, Chairman Camp and Chairman Upton sent a letter to HHS Secretary Sebelius asking that she grant a waiver requested by Michigan's Department of Licensing and Regulatory Affairs request for an adjustment to the minimum medical loss ratio (MLR) for Michigan's individual market in order to prevent a significant disruption in the market.

7. On May 1, 2012, the Committee majority staff prepared a report for the Chairman where data from 71 Fortune 100 companies show these companies could save hundreds of millions of dollars per year beginning in 2014 by simply terminating health insurance for their workers and dumping these employees into taxpayer-funded health care exchanges. Based on an aggregation of the data received, if the 71 Fortune 100 companies that replied to the survey ceased to offer health care coverage and paid the employer mandate penalty, they could save a total of \$28.6 billion in 2014 (an average savings of over \$400 million per company) and \$422.4 billion from 2014-2023 (an average savings of nearly \$6 billion per company).

#### *Subcommittee on Human Resources*

##### 1. Hearing on Improving Efforts to Help Unemployed Americans Find Jobs

###### *Actions Taken:*

On February 10, 2011, the Subcommittee received testimony on improving efforts to help unemployed Americans find jobs from (i) Kristen Cox, Executive Director, Utah Workforce Services; (ii) Tom Pauken, Chairman, Texas Workforce Commission; (iii) Heather Boushey, Ph.D., Senior Economist, Center for American Progress; and (iv) Douglas J. Holmes, President, UWC-Strategic Services on Unemployment and Workers' Compensation. The hearing focused on current policies and programs designed to help unemployed individuals return to work and how they can be improved.

##### 2. Hearing on the Use of Data Matching to Improve Customer Service, Program Integrity, and Taxpayer Savings.

###### *Actions Taken:*

On March 11, 2011, the Subcommittee received testimony on the use of data matching to improve customer service, program integrity, and taxpayer savings from (i) The Honorable Patrick P. O'Carroll, Jr., Inspector General, Social Security Administration; (ii) Sundhar Sekhar, Principal, National Health and Human Services Practice Leader, Deloitte Consulting; (iii) Joseph Vitale, Director, Information Technology Systems Center (ITSC), National Association of State Workforce Agencies (NASWA); (iv) Elizabeth Lower-Basch, Senior Policy Analyst, Center for Law and Social Policy; and (v) Ron Thornburgh, Senior Vice President of Business Development, NIC. The hearing focused on the use of data matching to improve public benefit programs under the Subcommittee's jurisdiction.

##### 3. Hearing on GAO Report on Duplication of Government Programs; Focus on Welfare and Related Programs.

###### *Actions Taken:*

On April 5, 2011, the Subcommittee received testimony regarding the GAO report on

the duplication of government programs from (i) Kay E. Brown, Director, Education, Workforce, and Income Security, U.S. Government Accountability Office; (ii) LaDonna Pavetti, Vice President for Family Income Support Policy, Center on Budget and Policy Priorities; and (iii) Robert Rector, Senior Research Fellow, Domestic Policy, The Heritage Foundation. The hearing focused on overlap involving welfare and related programs under the Subcommittee's jurisdiction, and considered recommendations for reducing such duplication and providing more effective services to low-income families.

#### 4. Hearing on Programs Designed to Protect At-Risk Youth

##### *Actions Taken:*

On June 16, 2011, the Subcommittee received testimony on programs designed to protect at-risk youth from (i) The Honorable Dennis R. "Denny" Rehberg, a Representative from the State of Montana; (ii) The Honorable Karen R. Bass, a Representative from the State of California; (iii) The Honorable Bryan Samuels, Commissioner, Administration on Children, Youth and Families, Administration for Children and Families, U.S. Department of Health and Human Services; (iv) Patricia R. Wilson, Commissioner, Department for Community Based Services, Kentucky Cabinet for Health and Family Services; (v) Lelia Baum Hopper, Director, Court Improvement Program, Supreme Court of Virginia; (vi) Tracy Wareing, Executive Director, American Public Human Services Association; (vii) John Sciamanna, Director, Policy and Government Affairs, Child Welfare, American Humane Association; and (viii) Steve Yager, Deputy Director, Children's Services Administration, Michigan Department of Human Services. The hearing reviewed recent changes to the Stephanie Tubbs Jones Child Welfare Services program and the Promoting Safe and Stable Families program, as well as considered whether additional changes should be made in legislation to reauthorize these programs.

#### 5. Hearing on Child Deaths Due to Maltreatment

##### *Actions Taken:*

On July 12, 2011, the Subcommittee received testimony on child deaths due to maltreatment from (i) Kay E. Brown, Director, Education, Workforce, and Income Security, U.S. Government Accountability Office; (ii) Tamara Tunie, Actor, Law and Order: SVU and Spokesperson, National Coalition to End Child Abuse Deaths; (iii) Theresa Covington, M.P.H., Director, The National Center for Child Death Review; (iv) Michael Petit, President and Founder, Every Child Matters Education Fund; (v) Carole Jenny, M.D., Director, Child Protection Program, Hasbro Children's Hospital; and (vi) Jane McClure Burstain, Ph.D., Senior Policy Analyst, Center for Public Policy Priorities. The hearing reviewed data on child deaths due to maltreatment, questioned how to improve the accuracy of this data, and reviewed how improving the accuracy of this data may help prevent future fatalities.

#### 6. Hearing on Improving Work and Other Welfare Reform Goals

##### *Actions Taken:*

On September 8, 2011, the Subcommittee received testimony on improving work and other welfare reform goals from (i) Gary Alexander, Secretary, Pennsylvania Department of Public Welfare; (ii) Kay E. Brown, Director, Education, Workforce, and Income Security, U.S. Government Accountability Office; (iii) Douglas Besharov, Professor, School of Public Policy, University of Maryland; (iv) Scott Wetzler, Ph.D., Vice Chairman and Professor, Department of Psychiatry and Behavioral Sciences, Montefiore Medical Center; and (v) LaDonna Pavetti, Ph.D., Vice President for Family Income Support Policy, Center on Budget and Policy Priorities. The hearing focused on oversight of the TANF program along with proposals to improve work and other TANF goals as part of upcoming

legislation to extend TANF and related programs.

## 7. Hearing on Work Incentives in Social Security Disability Programs

### *Actions Taken:*

On September 23, 2011, the Subcommittees on Human Resources and Social Security held a joint hearing and received testimony on work incentives in Social Security disability programs from (i) Robert R. Williams, Associate Commissioner, Office of Employment Support Programs, accompanied by Dr. Robert R. Weathers II, Deputy Associate Commissioner, Office of Program Development and Research, Social Security Administration; (ii) Dan Bertoni, Director, Education, Workforce, and Income Security Issues, U.S. Government Accountability Office; (iii) Deb Russell, Manager, Outreach and Employee Services, Walgreens Company; (iv) James Hanophy, Assistant Commissioner, Texas Department of Assistive and Rehabilitative Services, Austin, Texas, on behalf of the Council of State Administrators of Vocational Rehabilitation; (v) Cheryl Bates-Harris, Senior Disability Advocacy Specialist, National Disability Rights Network, on behalf of the Consortium for Citizens with Disabilities Employment and Training Task Force; and (vi) John Kregel, Professor, Special Education and Disability Policy, Virginia Commonwealth University, Richmond, Virginia. The hearing focused on the current work incentives in the SSDI and SSI programs and their impact on the number of individuals exiting the benefit rolls, including the data and reports documenting such impact. The Subcommittees also examined recommended performance standards to guide future evaluations of work incentives programs, with particular focus on Ticket to Work, WIPA, PABSS, and Vocational Rehabilitation Services. In addition, ongoing and proposed SSDI demonstration projects were also reviewed.

## 8. Hearing on Supplemental Security Income Benefits for Children

### *Actions Taken:*

On October 27, 2011, the Subcommittees on Human Resources and Social Security held a joint hearing and received testimony on SSI benefits for children from (i) Daniel Bertoni, Director, Education, Workforce, and Income Security, U.S. Government Accountability Office; (ii) Richard V. Burkhauser, Ph.D., Professor, Department of Policy Analysis and Management, Cornell University; (iii) David Wittenburg, Ph.D., Senior Researcher, Mathematica Policy Research; (iv) Jonathan M. Stein, General Counsel, Community Legal Services of Philadelphia and Member, SSI Coalition for Children and Families; and (v) Elizabeth J. Roberts, M.D., Child and Adolescent Psychiatrist. The hearing focused on oversight of SSI benefits for children, including trends, program growth, and recipient outcomes.

### *Subcommittee on Social Security*

#### 1. Strengthening Social Security.

### *Action Taken:*

On June 3, 2011, the Subcommittee held a hearing on the 2011 Annual Report of the Social Security Board of Trustees. Testimony was received from (i) Charles P. Blahous, public trustee, Social Security and Medicare Boards of Trustees; and (ii) Robert Reischauer, public trustee, Social Security and Medicare Boards of Trustees. The witnesses provided an overview of Social Security financing and discussed causes behind Social Security's looming insolvency, including lower fertility rates, longer life expectancies, retirement of Baby Boomers and the recent recession. According to the Trustees' projections, based on their

intermediate assumptions, Social Security tax revenues will cover 77 percent of scheduled benefits beginning in 2036. In addition, both witnesses urged Congress to act soon to save Social Security in order to protect those who are most vulnerable, to allow families time to prepare for retirement, and to ensure the burden is shared across generations.

On June 23, 2011, the Subcommittee held a hearing on Social Security's finances, focusing on Social Security's current revenue streams, proposed changes to those structures and the impact they would have on the program, beneficiaries, workers and the economy. Testimony was received from (i) Thomas Barthold, Chief of Staff, Joint Committee on Taxation; (ii) Alex Brill, Research Fellow, American Enterprise Institute; (iii) Andrew Biggs, Resident Scholar, American Enterprise Institute; (iv) Mark Warshawsky, Member, Social Security Advisory Board; (v) Stephen Goss, Chief Actuary, Social Security Administration; and (vi) Tim Lee, Texas Retirement Teachers Association, on behalf of Coalition to Preserve Retirement Security. Witnesses discussed program financing issues including how payroll taxes apply to wages, the numerous exceptions to the definitions of wages, and the current law reduction in the payroll tax paid by employees and its impacts. Testimony also reviewed the impacts of mandating Social Security coverage for all newly hired public workers (including reductions in existing defined benefit plans, reduced government services and/or increases in State and local taxes or fees) the tradeoffs between benefit adjustments and revenue increases for Social Security, and the negative effects of payroll tax rate or taxable wage base increases, including discouraging work, decreasing savings and hindering the ability of small businesses to create jobs.

On July 8, 2011, the Subcommittee held a hearing on Social Security's finances, focusing on Social Security's current benefit expenditures, proposed changes to future benefits and the impact those changes would have on the program, future beneficiaries, workers, and the economy. Testimony was received from (i) Sylvester J. Schieber, Independent Consultant; (ii) Thomas S. Terry, President, T. Terry Consulting; (iii) C. Eugene Steuerle, Senior Fellow, Urban Institute; (iv) Joan Entmacher, Vice President for Family Economic Security, National Women's Law Center; (v) Charles P. Blahous, Research Fellow, Hoover Institution; and (vi) Barbara Bovbjerg, Director for Education, Workforce, and Income Security, U.S. Government Accountability Office (GAO). Witnesses pointed out the inequities of the program, including those involving women, one-earner versus two-earner couples, needed benefit enhancements for those who are most vulnerable, the shifting balance between working years and retirement years due to increases in life expectancy, the importance of incentives for greater participation in the labor force, and the impact of using different consumer price indices for cost of living adjustments. Witnesses agreed that the sooner Congress acts to strengthen the program, the better. Ms. Bovbjerg highlighted the findings of a GAO report requested on May 20, 2011, by Subcommittee Chairman Johnson examining the actions taken by the Social Security Administration (SSA) to move the Social Security Statement online and to assess planned improvements to the statement. Her testimony highlighted the purpose of the currently suspended Social Security Statement and how crucial it is to the millions of Americans affected by Social Security, along with the fact that the statement serves as the agency's primary method of communicating with workers. Efforts to improve the statement and implement a system for public online access to the statement were also reviewed.

## 2. Stewardship of Social Security Programs.

### *Action Taken:*

On April 14, 2011, the Subcommittee held a hearing on the SSA's role in verifying

employment eligibility. Witnesses discussed the progress made and challenges created by E-Verify, including the potential burdens on employees and the SSA's budget. In addition, current shortcomings and potential improvements to the verification process were considered. The Subcommittee received testimony from (i) Richard M. Stana, Director, Homeland Security and Justice, United States Government Accountability Office; (ii) Marianna LaCanfora, Assistant Deputy Commissioner, Office of Retirement and Disability Policy, Social Security Administration; (iii) Tyler Moran, Policy Director, National Immigration Law Center; (iv) Ana I. Antón, Ph.D., Professor, Department of Computer Science, College of Engineering, North Carolina State University, on behalf of the Association for Computing Machinery; and (v) Austin T. Fragomen, Jr., Chairman of the Board of Directors of the American Council on International Personnel, on behalf of the HR Initiative for a Legal Workforce.

On June 14, 2011, the Subcommittees on Oversight and Social Security held a joint hearing on the accuracy of payments made by the Social Security Administration. The Subcommittees received testimony from (i) Carolyn Colvin, Deputy Commissioner, Social Security Administration; (ii) Patrick P. O'Carroll, Jr., Inspector General, Social Security Administration; (iii) Dan Bertoni, Director, Education, Workforce and Income Security Issues, U.S. Government Accountability Office; (iv) Ann P. Roberts, Deputy Director, Bureau of Disability Determination Services, Illinois Department of Human Services, on behalf of the National Council of Disability Determination Directors; and (v) Joseph Dirago, President, National Council of Social Security Management Associations. Further information about this hearing is included in the Subcommittee on Oversight section of this report.

*Other Actions Taken:*

On April 9, 2011 the Subcommittee requested a report from the Social Security Administration Inspector General (IG) on the SSA's funding and use of the Limitation on Administrative Expenses (LAE) which is the mechanism used by the Committee on Appropriations to pay for SSA's administrative expenses. During previous appropriations cycles, the SSA had transferred money from its LAE account to an Information Technology Systems (ITS) fund, bringing the balance to \$1 billion. The request letter and the subsequent October 2011 IG report provided a rationale for Congress' previous decisions made in early 2011 to rescind monies sitting in the ITS fund, thereby creating budget savings and making the funding of the SSA more accurate and transparent for the FY2011 funding cycle and beyond.

3. Use of the Social Security Number.

*Action Taken:*

On April 13, 2011, the Subcommittee held a hearing on the role of Social Security numbers (SSNs) in identity theft and options to guard its privacy. Witnesses discussed the impacts of identity theft, the role of SSNs in abetting identity theft, and options to restrict its use. In addition, the role of SSNs in administering Social Security programs and how the Social Security Administration protects SSNs were considered, along with legislative proposals to limit the use of SSNs. The Subcommittee received testimony from (i) The Honorable Patrick P. O'Carroll Jr., Inspector General, SSA; (ii) Maneesha Mithal, Associate Director of the Division of Privacy and Identity Protection, Federal Trade Commission; and (iii) Theresa L. Gruber, Assistant Deputy Commissioner, Office of Operations, Social Security Administration.

On September 1, 2011, the Subcommittee held a field hearing in Plano, Texas on

Social Security numbers and child identity theft. Testimony was received from (i) Stacey Lanius, of Plano, Texas; (ii) Steve Bryson, of Allen, Texas; (iii) Deanya Kueckelhan, Director, Southwest Region, Federal Trade Commission; (iv) Lynne M. Vieraitis, Ph.D., Associate Professor of Criminology, University of Texas at Dallas; and (v) Robert Feldt, Special Agent In-Charge, Office of the Inspector General, Social Security Administration, Dallas Field Division, accompanied by Antonio Puente, Special Agent, Dallas Field Division. The witnesses discussed the impacts of child identity theft, the role of SSNs in identity theft and options to better safeguard SSNs. In addition, the hearing examined the growing crime of child identity theft and the SSA's law enforcement role in protecting SSNs and assisting other law enforcement agencies in combating identity theft.

On February 2, 2012, the Subcommittee held a hearing on Social Security's management of death data (including Social Security numbers) and the implications of the Social Security Administration's (SSA) publically available Death Master File in identity theft, including the theft of the identities of deceased children to obtain fraudulent tax refunds. Witnesses discussed the development of the SSA's death data files, legal issues surrounding death information and the role of the states in managing death records, and H.R. 3475 "Keeping IDs Safe Act of 2011" introduced by Subcommittee on Social Security Chairman Sam Johnson to end the Social Security Administration's public Death Master File publication. The Subcommittee also examined crime resulting from the publication of the sensitive data made available through Death Master File and the actions the SSA is taking to better protect death records, including developing legislation permitting them to refuse requests for death information. The Subcommittee heard testimony from two witness panels. The first panel included (i) Michael J. Astrue, Commissioner, Social Security Administration. The second panel included (ii) Jonathan Agin, of Arlington, Virginia; (iii) Stuart K. Pratt, Chief Executive Officer, Consumer Data Industry Association; (iv) John Breyault, Vice President of Public Policy, Telecommunications & Fraud, National Consumers League; (v) Patrick P. O'Carroll, Jr., Inspector General, Social Security Administration; and (vi) Patricia Potrzebowski, Ph.D., Executive Director, National Association for Public Health Statistics and Information Systems.

On May 8, 2012, the Subcommittees on Oversight and Social Security held a hearing on identity theft and tax fraud. The hearing detailed how the Social Security Administration's publication of the Social Security Death Master File (DMF) provides criminals with the tools to file for and obtain multiple fraudulent tax refunds, and the processes the Internal Revenue Service (IRS) is using in its attempts to detect and stop illegal refunds. The Subcommittees heard testimony from the following witnesses: (i) J. Russell George, Treasury Inspector General for Tax Administration; (ii) Patrick P. O'Carroll, Jr., Inspector General, Social Security Administration; (iii) Steven T. Miller, Deputy Commissioner for Services and Enforcement, Internal Revenue Service; (iv) Nina E. Olson, National Taxpayer Advocate, Internal Revenue Service; and (v) David F. Black, General Counsel, Social Security Administration. Further information about this hearing is included in the Subcommittee on Oversight section of this report.

*Other Actions Taken:*

On April 11, 2011, Subcommittee Chairman Johnson asked the Government Accountability Office to determine if States' driver's license agencies were in compliance with rules to verify the authenticity of SSNs, since an individual's driver's license serves as a critical gateway to obtaining authentic identification. In 2005, the REAL ID Act established standards for driver's licenses to prevent identity thieves and terrorists from obtaining these credentials. The letter also asked for an assessment of the challenges and any

vulnerable processes the States may be encountering, and the type and adequacies of policies and procedures the SSA has in assisting State agencies.

On March 28, 2012, the GAO informed the Subcommittee of their scope of work relating to a September 13, 2011 request from Subcommittee Chairman Johnson and Subcommittee Member Lloyd Doggett to study the experience of the Veterans' Administration and the Department of Defense in removing SSNs from identity cards and how these lessons may be applicable to the Centers for Medicare and Medicaid Services in the removal of SSNs from Medicare cards.

#### 4. Challenges Facing the Disability Insurance (DI) Program.

##### *Action Taken:*

On July 11, 2011, the Subcommittee on Social Security and the Committee on Judiciary Subcommittee on Courts, Commercial & Administrative Law held a joint hearing on the role of Social Security Administrative Law Judges (ALJs). The Subcommittees received testimony from (i) Michael J. Astrue, Commissioner, Social Security Administration; and (ii) Christine Griffin, Deputy Director, Office of Personnel Management (OPM). Commissioner Astrue testified that by statute the SSA is limited in its management oversight and discipline of ALJs. He discussed the enhanced rigor he put in place for ALJ hiring as well as his more pro-active approach to ALJ discipline during his tenure. He noted that judges in his agency who award disability benefits more than 85 percent of the time cost taxpayers roughly \$1 billion a year. The Commissioner also testified that productivity initiatives have reduced Social Security disability hearing wait times from a high of 505 days in August 2008 to 353 days in June 2011. His overall goal to improve wait times is 270 days. Deputy Director Christine Griffin testified that OPM manages the ALJ register, from which agencies hire all ALJs. Ms. Griffin testified that OPM's role is to administer the ALJ examination process and maintain a list of qualified ALJs that all agencies can access. She stated that OPM does not make suitability findings or otherwise screen ALJ candidates. Agencies have sole responsibility for hiring, and managing ALJs. She also testified that agencies are restricted in rating the performance of ALJs in order to ensure that ALJs are free of agency interference, but that agencies can discipline ALJs if they establish good cause with the Merit Systems Protection Board, a process that typically takes two years while the ALJ remains in full pay status. Various options identified in testimony included legislative reforms that would assure consistency and fairness, instituting peer reviews among ALJs, time-limited instead of career appointments, and increasing ALJ performance and accountability through performance assessments.

On September 23, 2011, the Subcommittees on Social Security and Human Resources held a joint hearing on work incentives in Social Security disability programs. The Subcommittees received testimony from (i) Robert R. Williams, Associate Commissioner, Office of Employment Support Programs, accompanied by Robert R. Weathers II, Deputy Associate Commissioner, Office of Program Development and Research, Social Security Administration; (ii) Dan Bertoni, Director, Education, Workforce, and Income Security Issues, U.S. Government Accountability Office; (iii) Deb Russell, Manager, Outreach and Employee Services, Walgreens Company; (iv) James Hanophy, Assistant Commissioner, Texas Department of Assistive and Rehabilitative Services, on behalf of the Council of State Administrators of Vocational Rehabilitation; (v) Cheryl Bates-Harris, Senior Disability Advocacy Specialist, National Disability Rights Network, on behalf of the Consortium for Citizens with Disabilities Employment and Training Task Force; and (vi) John Kregel, Professor, Special Education and Disability Policy, Virginia Commonwealth University. The witnesses discussed the effectiveness of the Ticket to Work, Work Incentive Planning and

Assistance and Protection and Advocacy for Beneficiaries for Social Security programs and that the complexity of work incentive rules make the process of returning to work even more difficult. Mr. Bertoni's testimony covered the findings from a GAO report requested by Subcommittee Chairman Sam Johnson and Senate Judiciary Committee Ranking Member Chuck Grassley (R-IA) to determine the impact of 2008 regulatory changes affecting the SSA's return to work program, known as Ticket to Work. The GAO report highlighted several areas of concern including: a low overall participation rate of ticket holders in Ticket to Work; a shift in service approaches by Employment Networks (ENs) to focus on ticket holders who are already employed or do not need assistance obtaining employment; and a lack of adequate tools for the SSA to evaluate the effectiveness of ENs and the degree to which ticket holders are returning to work and exiting the benefit rolls. Testimony was also heard on the need to make Ticket to Work more accountable to beneficiaries and taxpayers through performance standards and measurable results.

On December 2, 2011 the Subcommittee held its first hearing in a series entitled "Securing the Future of the Social Security Disability Insurance Program." Testimony was received from (i) Stephen C. Goss, Chief Actuary, Social Security Administration; (ii) Virginia P. Reno, Vice President for Income Security Policy National Academy of Social Insurance; and (iii) Andrew G. Biggs, Ph.D., Resident Scholar, American Enterprise Institute. The hearing focused on the history of the Disability Insurance (DI) program, the importance of its benefits, the growth of the program and the drivers of that growth along with program's current and future financing challenges. Witnesses discussed the drivers of the program's extensive growth and resulting costs, including population aging, changes in the working population, legislative changes that have eased eligibility criteria, and economic slowdowns, along with projected DI Trust Fund insolvency unless legislative changes are made.

On January 24, 2012, the Subcommittee held a second hearing in the hearing series "Securing the Future of the Social Security Disability Insurance Program." Testimony was received from (i) Carolyn Colvin, Deputy Commissioner, Social Security Administration; (ii) Patrick P. O'Carroll, Jr., Inspector General, Social Security Administration; (iii) Thomas Brady, Special Agent, Office of the Inspector General, Social Security Administration, Kansas City Field Division, St. Louis, Missouri; (iv) Paul Neske, Detective, St. Louis County Police Department, St. Louis, Missouri; and (v) Steve Clifton, President, National Council of Social Security Management Associations. The hearing focused on combating waste, fraud, and abuse within the DI program. Witnesses discussed overpayments, Continuing Disability Reviews (CDRs), and the Cooperative Disability Investigation (CDI) Program. Specifically, several witnesses emphasized the important role that CDRs and CDI units play in rooting out instances of abuse within the program. New estimates by the SSA in the FY 2012 budget indicate that each dollar spent for CDRs yields \$9 in lifetime program savings, including Medicare and Medicaid savings. Each dollar spent on CDIs in FY 2011 resulted in \$14 of DI program savings. Additionally, the Subcommittee reviewed video utilized by the Office of the Inspector General in certain fraud investigations that resulted in benefits either terminated or denied.

On March 20, 2012, the Subcommittee held the third hearing in the series on, "Securing the Future of the Social Security Disability Insurance Program." The Subcommittee received testimony from (i) The Honorable Michael J. Astrue, Commissioner, Social Security Administration; (ii) Trudy Lyon-Hart, Director, Office of Disability Determination Services, Vermont Agency of Human Services, on behalf of the National Council of Disability Determination Directors; (iii) Lisa D. Ekman, Senior Policy Advisor, Health & Disability Advocates on behalf of the Consortium for Citizens with Disabilities

Social Security Task Force; (iv) Dan Bertoni, Director, Education, Workforce, and Income Security Issues, U.S. Government Accountability Office; (v) Leighton Chan, M.D., Chief, Rehabilitation Medicine Department, National Institutes of Health; and (vi) Nicole Maestas, Ph.D., Senior Economist, RAND Corporation. Witnesses discussed how disability insurance eligibility decisions are made at the initial level, the definition of disability, the importance of the program, and the Federal-State relationship within the disability process. Additionally, witnesses argued that although the federally-funded State Disability Determination Services work efficiently and cost-effectively to make the right decision as early in the process as possible, the disability insurance program has not kept pace with medical advances, rehabilitative technology, and workplace changes. Furthermore, advances in technology have created assessment tools that have the potential to enhance and improve the process and ensure credible, objective outcomes for the DI program.

*Other Actions Taken:*

On April 4, 2011, Subcommittee Chairman Johnson requested a GAO report to assess the SSA's plans and efforts to revise its disability criteria and explore the costs and benefits of additional interagency coordination. The target completion date for this report is June 2012.

On June 16, 2011, a number of Committee on Ways and Means Members, on a bipartisan basis, requested a report by the IG to assess the SSA's management and oversight of the disability hearing process and whether there are significant outliers within the Administrative Law Judge (ALJ) corps in terms of productivity or decisional outcomes. The OIG provided a response in two reports. The first report was completed February 14, 2012 and looked at ALJs who are significant outliers either in terms of productivity or decisional allowance rates, examined factors that may account for these variances, and determined the effectiveness of management controls over ALJ adherence to agency policies and procedures. The IG found that the majority of ALJs met or exceeded the Agency's 500-700 case disposition benchmark. Additionally, while the average decisional allowance rate for ALJs in FY 2010 was 67 percent, it ranged from a low of 8.6 percent to a high of 99.7 percent nationwide. The IG identified that the variances in allowances are most notably attributable to ALJ decisional independence and the demographics of claimants served by the hearing office, such as age, education, and available work. Agency monitoring of ALJ performance is limited to whether ALJs meet established productivity benchmarks, and the agency is constrained from initiating disciplinary action related to an ALJ's workload performance. The IG concluded that greater agency attention is needed to ensure ALJ outliers are monitored and underlying work processes are periodically reviewed.

The OIG issued its second report on March 19, 2012. The report identified the constraints, including the statutory limitations of the Administrative Procedure Act, that make it difficult for the agency to ensure ALJ compliance with its policies and procedures. The agency is specifically limited from reviewing ALJ decisions before they are finalized and paid, making ALJ oversight a challenge. SSA can review specific ALJ decisions after the fact and does so based on anomalies. If SSA determines an ALJ failed to comply with the Agency's policies and procedures, it can issue directives to the ALJ to comply. If the ALJ fails to comply with the directives, SSA can seek disciplinary actions against the ALJ. SSA also uses these reviews to identify training needs.

5. SSA's Information Technology (IT) Infrastructure.

*Action Taken:*

On February 11, 2011, the Subcommittee on Social Security and the Transportation and Infrastructure Subcommittee on Economic Development, Public Buildings, and

Emergency Management held a joint oversight hearing on managing costs and mitigating delays in the building of Social Security's new National Support Center (NSC). Witnesses discussed the importance of information technology in delivering 21st century customer service at the SSA and the steps being taken to mitigate risk and delays in the building of the NSC. The Subcommittee received testimony from (i) The Honorable Patrick P. O'Carroll Jr., Inspector General, SSA; (ii) David Foley, Deputy Commissioner of the Public Buildings Service, U.S. General Services Administration; and (iii) G. Kelly Croft, Deputy Commissioner, Systems, SSA.

On May 9, 2012, the Subcommittee held a hearing on the state of Social Security's Information Technology (IT). At the hearing, Chairman Johnson released a report he requested from the Government Accountability Office, "Social Security Administration: Technology Modernization Needs Improved Planning and Performance Measures," which outlined Social Security's current efforts to modernize its information technology. While some progress has been made to modernize its IT, more is required for Social Security to keep pace with rapid changes in technology. Witnesses argued for the need for a comprehensive IT strategy that defines needed accomplishments, identifies strategies to achieve results, takes into account beneficiary needs, and measures progress. The Subcommittee heard testimony from the following witnesses: (i) G. Kelly Croft, Deputy Commissioner of Systems and Chief Information Officer, Social Security Administration; (ii) Valerie C. Melvin, Director, Information Management and Technology Resource Issues, Government Accountability Office; (iii) Larry Freed, President and Chief Executive Officer, ForeSee Results, Inc.; (iv) William Scherlis, Ph.D., Professor, School of Computer Science, Carnegie Mellon University; and (v) Max Richtman, President and Chief Executive Officer, National Committee to Preserve Social Security & Medicare.

*Other Actions Taken:*

On April 14, 2011, Subcommittee Chairman Johnson requested the SSA IG to assess the SSA's progress in expanding electronic services to claimant representatives. The IG report was received on August 22, 2011 and found that the SSA made progress in efforts to provide electronic services to claimant representatives and lessened the processing burden on staff by using electronic services to automatically generate, print, and mail notices. The IG report also noted that the SSA will need to focus future efforts on increasing use of electronic services, such as allowing online registration, expanding online access to hearing data, reducing the use of hard-copy notices, and expanding "eFolder" access to additional parties.

On April 14, 2011, Subcommittee Chairman Johnson requested a GAO report to determine the SSA's progress and plans for modernizing its existing information technology systems and upgrading current system capabilities. The GAO report will evaluate the effectiveness of the SSA's management of these efforts, and strategic planning and investment management for key agency initiatives, such as improving the agency's disability and retirement claims services. The report, released at the May 9, 2012 Subcommittee hearing on the state of Social Security's Information Technology, found Social Security lacks effective tools to measure the impact of its modernization initiatives and needs an information technology strategic plan that has specific benchmarks. The report also examined the impact of the agency's recent decision to realign the responsibilities of the Chief Information Officer.

6. Service Delivery

*Other Actions Taken:*

On April 11, 2011, Subcommittee Chairman Johnson requested that the SSA IG research the possibility of charging user fees both as a way to fund the agency's administrative costs and to change certain consumer behavior. In particular, the September 2011 IG report discussed the advantages of the SSA charging user fees for replacement Social Security cards and Social Security printouts. User fees charged at field service locations, when combined with a viable customer delivery and web based services plan, hold the possibility of steering customers to the most efficient service delivery methods.

On April 14, 2011, Subcommittee Chairman Johnson requested a report by the IG to review the SSA's long term customer service delivery plan. In the event that the IG found that such a plan did not exist, the IG was asked to determine what information should be included. With the SSA facing budget restraints at the same it must handle a growing retirement and disability workload due to the aging population and the economic downturn, the SSA's need for a current business plan and effective long range planning is more important than ever. The IG report was received on July 29, 2011 and found that the SSA does not have a customer service delivery plan and has instead relied on the Agency Strategic Plan. However, due to Executive Order 13571, the SSA is required to develop a customer service plan that includes a short term and long term focus. The IG report recommended that the SSA implement a customer service plan, which address the following focus areas: electronic services, information technology, staffing, physical infrastructure, performance metrics, and potential challenges. The report also indicated how important new service methods, greater use of web based service delivery and technology will be to service SSA's beneficiaries. The ability for the agency to outline a plan will be critical to future administrative funding requests.

On October 6, 2011, Republican members of the Committee on Ways and Means requested a report by the IG to assess whether managers in the Office of Disability Adjudication and Review had instructed ALJs and hearing office employees to set aside their disability cases during the last "53<sup>rd</sup>" week in September and refrain from issuing decisions until the following week. The report was completed on March 7, 2012 and assessed the agency's management oversight and controls at nine hearing offices. Based on that review, the IG found that workload processing decreased significantly in the 53<sup>rd</sup> week. While agency officials noted that employees were advised to continue processing cases in the 53<sup>rd</sup> week, the IG confirmed that some employees were confused about Week 53, and that some employees received instructions from managers to withhold certain types of case processing. While it appears hearing office employees were working throughout Week 53, this work was not always being processed in the same manner nor captured in SSA's systems. To prevent future occurrences of workload declines during a 53<sup>rd</sup> week, OIG concluded the agency needs to clearly communicate a policy that explicitly states work will be processed and measured uniformly throughout each year, including those with 53 weeks.

On November 18, 2011, a number of Republican members of the Committee on Ways and Means requested a report by the GAO to determine the effectiveness of the Social Security Administration's representative payee program, in the wake of the horrific treatment of beneficiaries found in Philadelphia, Pennsylvania. The completion of the report is expected during the second session of the 112<sup>th</sup> Congress.

### C. OVERSIGHT LETTERS ISSUED BY THE COMMITTEE ON WAYS AND MEANS

#### 1. *Letter to Treasury Regarding the Prepaid Debit Card Pilot Program*

On January 20, 2011, Chairman Camp and Oversight Subcommittee Chairman Boustany sent a letter to Secretary Geithner requesting information regarding the Department of the Treasury's prepaid debit card program. Treasury launched the pilot

program to encourage certain taxpayers to receive their tax refunds on pre-paid debit cards, rather than paper checks. The letter requested information concerning cardholder fees, consumer protections, and the selection of the program's financial agent.

*2. Letter to IRS Regarding Improper Payments in the Earned Income Tax Credit Program*

On February 11, 2011, Chairman Camp and Oversight Subcommittee Chairman Boustany sent a letter to Commissioner Shulman requesting information regarding the Internal Revenue Service (IRS) efforts to recover improper payments in the Earned Income Tax Credit (EITC) program. The letter cited a 2009 Government Accountability Office (GAO) study finding that the EITC program was responsible for the second-highest amount of improper payments of any federal program. The letter also cited the IRS figures that 23 percent to 28 percent of EITC payments were improper in 2009, costing taxpayers between \$11 and \$13 billion. In the letter, Commissioner Shulman was asked to explain a February 2011 report by the Treasury Inspector General for Tax Administration (TIGTA) that found the IRS had not taken the steps necessary to reduce improper payments in the EITC program.

*3. Letter to HHS Regarding Ernst & Young's Independent Audit of Fiscal Year 2010 Financial Statements*

On March 10, 2011, Chairman Camp and Oversight Subcommittee Chairman Boustany sent a letter to Secretary Sebelius requesting detailed information based on an Ernst & Young audit that revealed shortcomings of the Department of Health and Human Services (HHS), which included the potential mishandling of \$794 million in taxpayer dollars. Among the audit's findings were suggestions that HHS's accounting systems did not comply with requirements of the Federal Financial Management Improvement Act. The letter requested information regarding the Department's response to the Ernst & Young audit.

*4. Letter to IRS Regarding AARP's 501(c)(3) Tax-Exempt Status Review*

Following a joint hearing of the Subcommittees on Health and Oversight, Congressmen Herger, Boustany, and Reichert sent an April 8, 2011 letter to the IRS concerning AARP and its organizational structure, for-profit activities, and financial windfall following the Patient Protection and Affordable Care Act. The letter outlined the findings of a joint report the three Congressmen released and asked that the IRS review AARP's tax-exempt status. The requested review was based on a Congressional report finding that AARP stands to gain an additional \$1 billion in revenues as a result of the law and in particular the one-half trillion dollars in Medicare cuts.

*5. Letter to IRS Regarding the Health Insurance Reform Implementation Fund*

On April 28, 2011, Chairman Camp and Oversight Subcommittee Chairman Boustany sent a letter to Commissioner Shulman requesting information on the amount and use of funds the agency had received from the Health Insurance Reform Implementation Fund. The Patient Protection and Affordable Care Act created a \$1 billion fund for the Department of Health and Human Services to distribute to agencies tasked with implementing the overhaul. At the time of the letter, the Administration had refused to provide this information to GAO.

*6. Letter to TIGTA on Outstanding Recommendations*

On May 10, 2011, Chairman Camp sent a letter to TIGTA Inspector General George

requesting information on TIGTA's past recommendations to prevent and detect fraud and abuse of refundable credits. Among the items requested were TIGTA's recommendations made over the past five years on the administration of tax credits. TIGTA was asked to identify its past recommendations, indicating which have been implemented or are in the process of being implemented, and also provide any additional recommended legislative actions to improve the economy, efficiency or integrity of tax administration.

#### *7. Letter to IRS Regarding Donor Gift Tax Investigations*

In May 2011, it was widely publicized that the IRS launched audits of five taxpayers for tax year 2008 for failure to pay gift tax on donations made to Internal Revenue Code (IRC) 501(c)(4) tax-exempt organizations. This came as a surprise since the IRS had not issued any guidance since 1982 on how to handle donations to IRC §501(c)(4) organizations, despite being regularly urged to do so by tax practitioners. This activity gave rise to concerns that the IRS audits had been designed to chill political speech in advance of the next election cycle.

In response, Chairman Camp sent two letters to the IRS Commissioner Shulman asking for more information on the gift tax audits of IRC §501(c)(4) contributions, and began an investigation on whether these examinations were political in nature. The first letter requested information about the IRS operations involving the auditing of gift tax returns and IRC §501(c)(4) organizations. Chairman Camp also sent an IRC §6103 request letter to Commissioner Shulman asking for access to returns and return information relating to this matter.

#### *8. Letter to IRS Concerning Uncollected Tax Debt*

On July 15, 2011, Chairman Camp and Oversight Subcommittee Chairman Boustany sent a letter to Commissioner Shulman requesting information to help the Committee better understand the decision to close the Private Debt Collection program, the IRS's tax debt inventory, and the progress in collecting these debts. At the end of fiscal year 2010, the IRS was owed approximately \$35 billion in collectible unpaid federal taxes, an increase of \$6 billion from 2009. In light of the IRS' focus on higher priority debt, Treasury authorized the IRS to use private debt collection agencies (PCAs) to collect certain tax debts below \$100,000. From 2006-2009, a PCA pilot program returned nearly \$82 million in revenue.

#### *9. Letter to IRS Regarding Orderly Reinstatement of FAA Taxes*

On August 4, 2011, Chairman Camp and Ranking Member Levin, along with Senate Finance Committee Chairman Max Baucus and Ranking Member Orrin Hatch sent a letter to the IRS Commissioner Shulman urging the IRS to appropriately use its discretion and authority in administering the reinstatement of excise taxes that support the Airport and Airway Trust Fund (AATF), which had expired on July 22, 2011 (along with the expenditure authority from the AATF). Upon expiration, the AATF excise taxes had stopped being collected, including the 7.5 percent of fare tax charged to domestic air passengers, the domestic flight segment tax, and portions of the excise tax on non-commercial aviation fuel.

On August 5, 2011, Congress enacted an extension of the AATF expenditure authority and associated excise taxes (the "Airport and Airway Extension Act of 2011, Part IV," H.R. 2553, Pub. L. 112-27). Because the House had passed this bill prior to the lapse in the AATF excise taxes, the bill did not contemplate the expiration of those excise taxes prior to its enactment. Accordingly, the letter from the Chairmen and Ranking Members of the Ways

and Means and Finance Committees advised the IRS of the potential impact on consumers and the aviation industry, as well as on the limited resources of the IRS, if these taxes were to be collected retroactively. The letter specifically encouraged the IRS to utilize its discretion and authority to extend relief to passengers and airlines with respect to ticket taxes that were not paid or collected because of the lapse, and to provide the industry a three-day period of time to restart their processes for collecting the taxes.

#### *10. Letter to Treasury Regarding Foreign Deposits*

On September 27, 2011, Oversight Subcommittee Chairman Boustany sent a letter to Treasury Secretary Geithner regarding the proposed IRS regulation that will require banks to disclose interest paid to nonresident aliens. Chairman Boustany warned that the regulation would potentially drive foreign investments out of the economy and hurt individuals and small businesses. He asked that the Secretary suspend implementation of the regulation, and requested information regarding the proposed regulation's conformity with the Administrative Procedure Act, a cost-benefit analysis, along with additional information.

#### *11. Letter to GAO Requesting a Review of Tax Delinquencies and Security Clearances*

On October 4, 2011, Chairman Camp, along with Senators Collins, Hatch and Coburn, sent a letter to GAO requesting a review of the potential vulnerabilities within the national security clearance investigative process in identifying tax delinquencies. The requested audit will review the current security clearance procedures that are undertaken by the U.S. Office of Personnel Management when vetting government employees, and whether it accurately identifies government workers that have outstanding tax liabilities.

#### *12. Letter to IRS Regarding Oversight of the Tax-Exempt Sector*

On October 6, 2011, Oversight Subcommittee Chairman Boustany sent a letter to the IRS Commissioner Shulman requesting information on the tax-exempt sector generally. In his letter, Chairman Boustany asked the Commissioner to provide information on a wide range of topics facing tax-exempts in order to review the current regulatory environment and to understand the IRS's ongoing enforcement efforts in these areas. Among the topics addressed in this inquiry are unrelated business income, tax-exempt audits, and other planned compliance projects and tax-exempt enforcement initiatives. Additional information was requested regarding current IRS compliance projects on universities and hospitals.

#### *13. Letter to HHS Regarding Financial Mismanagement at HHS*

On February 6, 2012, Oversight Chairman Boustany and Senate Permanent Subcommittee on Investigations Ranking Member Tom Coburn sent a letter to HHS Secretary Sebelius regarding an independent audit of HHS conducted by Ernst & Young that reveals continued shortcomings and weaknesses within HHS's financial management system. Chairman Boustany and Ranking Member Coburn noted violations of the Anti-Deficiency Act, inexplicable differences in accounting, and HHS's use of antiquated internal control processes. The letter requested explanations from HHS regarding steps taken to correct the serious issues discussed in the audit.

#### *14. Letter to IRS Regarding Tax-Exempt Sector Compliance*

On March 1, 2012, Oversight Chairman Boustany sent a letter to IRS Commissioner Shulman regarding compliance efforts involving the tax-exempt sector. This letter follows a letter sent on October 6, 2011 requesting an overview of IRS compliance efforts in the tax-exempt sector. The March 1, 2012 letter requested information on the number of 501(c)(3) and (4) tax-exempt organizations the IRS has recognized, the number of applicants for tax-exempt status the IRS has received, the IRS review process for each application, and requests clarification of the IRS' response to the October 6, 2011 letter.

*15. Letters to HHS, DOJ, and CMS Regarding Medicare Fraud*

On March 7, 2012, Oversight Chairman Boustany sent two letters, one to HHS Secretary Sebelius and Attorney General Holder, and the other to CMS Acting Commissioner Tavenner, regarding Medicare fraud.

The letter to HHS and DOJ requested information about improper Medicare payments, in light of fraud occurring in Texas. The letter also requested information regarding the Health Care Prevention and Enforcement Action Team (HEAT), specifically criminal investigations, HEAT task force funding levels, return on investment calculations for the Health Care Fraud and Abuse Control Program, a detailed breakdown of convictions by types of fraud, and details of criminal investigations in the Southern District of Texas HEAT task force concerning private ambulance providers.

The letter to CMS requested information regarding Acting Commissioner Tavenner's use of authority under Section 1866 of the Social Security Act to impose temporary moratoriums on the enrollment of certain new providers when necessary to combat fraud, waste, or abuse within Medicare. It also requested information regarding apparent Medicare fraud in Texas.

*16. Letter to CMS Regarding Protecting Medicare From Waste, Fraud, and Abuse*

On April 2, 2012, Oversight Chairman Boustany and Health Chairman Herger, along with Senate Finance Committee Ranking Member Orrin Hatch and Committee member Tom Coburn, sent a letter to CMS Acting Administrator Tavenner regarding whether CMS is fully utilizing its resources to safeguard Medicare from waste, fraud, and abuse. The letter requested information regarding CMS' efforts to identify "nominee owners" and the type of fraud perpetrated by individuals and organizations establishing false storefronts and "shell companies."

*17. Letter to IRS Regarding Usage of HHS funds to Implement the Affordable Care Act*

On April 10, 2012, Committee Chairman Camp and Oversight Chairman Boustany sent a letter to IRS Commissioner Shulman regarding the IRS' use of funds from HHS's Health Insurance Reform Implementation Fund (HIRIF) to implement the Affordable Care Act (ACA). The letter followed a letter Chairman Camp and Chairman Boustany sent to the IRS on April 28, 2011 on the same subject, to which IRS replied on May 13, 2011. The April 10, 2012 letter requested information regarding HIRIF funds sent since the date of the IRS' May 13, 2011 response to the initial letter, as the IRS may be receiving additional taxpayer money from HHS for further ACA implementation activities.

*18. Letter to CMS Regarding the Effectiveness of the Medicare Integrity Program*

On April 25, 2012, Oversight Chairman Boustany sent a letter to CMS Acting Administrator Marilyn Tavenner. The letter inquired into the performance, effectiveness,

and evaluation of the Medicare Integrity Program and its contractors. The letter requested information regarding contracts CMS maintains with outside entities, methodology CMS uses to calculate costs and return on investment regarding program integrity contractors, and updates on weaknesses previously found in the data CMS uses to calculate return on investment.

*19. Letter to Cabinet-Level Departments Regarding Possible Kickbacks*

On May 3, 2012, Oversight Subcommittee Chairman Boustany sent a letter to 15 departments and two agencies requesting information about potential abuse of the Energy Efficient Commercial Buildings Deduction. Chairman Boustany expressed concern that the General Services Administration may be using this deduction to secure kickbacks from contractors by requiring them to pay the GSA 19 percent of the deduction's value. Chairman Boustany requested correspondence from government entities regarding the deduction, information regarding the number of contractors receiving deductions, the monetary value of any deductions, and how government entities used the funds. The letter was sent to the Department of Agriculture, the Department of Commerce, the Department of Defense, the Department of Education, the Department of Energy, the Department of Health and Human Services, the Department of Homeland Security, the Department of Housing and Urban Development, the Department of the Interior, the Department of Justice, the Department of Labor, the Department of State, the Department of Transportation, the Department of Treasury, the Department of Veterans Affairs, the General Services Administration, and the Environmental Protection Agency.

*20. Letter to Treasury Regarding Harmful IRS Bank Regulation*

On May 11, 2012, Oversight Subcommittee Chairman Boustany sent a letter to Treasury Secretary Geithner regarding an IRS regulation requiring banks to disclose interest paid to nonresident aliens. The letter discussed Treasury's failure to provide sufficient answers about the regulation to questions that Chairman Boustany posed in an earlier letter on the subject, sent on September 27, 2011. Chairman Boustany requested that the Treasury Department provide correspondence and other documents relating to the formation of its opinion that the regulation in question is not a "significant regulatory action," as well as information already requested in the September 27, 2011 letter.

*21. Letter to HHS Regarding Use of Taxpayer Money on Public Relations Campaigns*

On May 22, 2012, Oversight Subcommittee Chairman Boustany sent a letter to HHS Secretary Sebelius requesting information on HHS's use of taxpayer dollars on contracts for public relations, advertisements, polling, message testing, and similar services. The letter requested information regarding contractors and subcontractors, description of contract, work performed, and contract cost.

### **III. Selected Regulations, Orders, Actions, and Procedures of Concern**

Pursuant to H. Res. 72, for the first session of the 112<sup>th</sup> Congress, the Committee is required to identify any oversight or legislative activity conducted in support of, or as a result of, its "inventory and review of existing, pending, and proposed regulations, orders, and other administrative actions or procedures by agencies of the Federal government" within its jurisdiction.

1. IRS regulations on tanning tax (*TD 9486 and REG-112841-10*)

*Description:* Implement new 10 percent excise tax on users and providers of indoor tanning services imposed under new health law.

*Specific legislative or oversight activities undertaken in response:* On January 19, 2011, the House passed H.R. 2, legislation repealing the new health law, including the tanning tax. The provision has been discussed during Committee hearings in the 112<sup>th</sup> Congress, including at the January 21, 2011, full Committee hearing on the health law's impact on employers.

2. IRS guidance on Flexible Spending Arrangement (FSA) and Health Reimbursement Account (HRA) restrictions (*Notice 2010-59 and Notice 2011-5*) *Description:* Implement certain aspects of new restrictions – effective January 1, 2011– on the use of FSAs and HRAs under the new health law.

*Specific legislative or oversight activities undertaken in response:* On January 19, 2011, the House passed H.R. 2, legislation repealing the new health law, including the new restrictions on FSAs and HRAs.

These provisions have been discussed during Committee hearings in the 112<sup>th</sup> Congress, including at the January 26, 2011, full Committee hearing on the health law.

3. IRS regulations on new medical loss ratio (MLR) requirements (*Notice 2010-79, Notice 2011-4, Rev. Proc. 2011-14, and Notice 2011-51*).

*Description:* Implement certain aspects of new MLR requirements applicable to certain health plans under Internal Revenue Code Sec. 833 pursuant to the new health law.

*Specific legislative or oversight activities undertaken in response:* On January 19, 2011, the House passed H.R. 2, legislation repealing the new health law, including the new MLR Rules.

4. Department of Labor regulations on definition of “fiduciary.”, (*RIN 1210-AB32*).

*Description:* Would change the regulatory definition of the term “fiduciary” under Internal Revenue Code Section 4975(e)(3) and under ERISA.

*Specific legislative or oversight activities undertaken in response:* Chairman Camp and others sent an April 14, 2011 letter to DOL, Treasury, and IRS expressing various concerns.

5. Treasury's Pilot Program of Prepaid Debit and Payroll Cards, launched January 13, 2011.

*Description:* Program invited select low and moderate-income individuals to participate in Prepaid Debit Card Program for federal tax refunds.

*Specific legislative or oversight activities undertaken in response:* On January 20, 2011, Chairmen Camp and Boustany sent a letter to Secretary Geithner requesting information and documents concerning the program's cost, contract and participant selection, and other information.

6. Federal-State Unemployment Compensation Program: Funding Goals for Interest- Free Advances, (*20 CFR Part 606, Notice 2010-22926*).

*Description:* This regulation requires that States meet a solvency criterion in one of the five calendar years preceding the year in which advances are taken and to meet two tax effort criteria for each calendar year after the solvency criterion is met up to the year in

which an advance is taken.

*Specific legislative or oversight activities undertaken in response:* On May 5, 2011, legislation was introduced (H.R. 1745) containing the repeal of the regulation, and the Committee held a mark-up on May 11, 2011. The bill was ordered favorably reported and placed on the Union Calendar, Calendar No. 48 on May 23, 2011. No further action has been taken by the House.

7. Letter to HHS Secretary Sebelius on Administration Health Care Waivers (OCIIO-9994-IFC: Patient Protection and Affordable Care Act: Preexisting Condition Exclusions, Lifetime and Annual Limits, Rescissions, and Patient Protections; OCIIO Sub-Regulatory Guidance: Process for Obtaining Waivers of the Annual Limits Requirements of PHS Act Section 2711, OCIIO Supplemental Guidance: Waivers of the Annual Limits Requirements; OCIIO Supplemental Guidance: Consumer Notices on Waivers of the Annual Limits Requirements; and OCIIO Supplemental Guidance: Sale of New Business by Issuers Receiving Waivers).

*Description:* This regulation and subsequent sub-regulatory guidance implemented a process by which employers could seek a waiver from certain annual benefit limits if they could show meeting the requirement would substantially increase employee costs or decrease benefits.

*Specific legislative or oversight activities undertaken in response:* On May 24, 2011, Chairman Camp and Senate Finance Committee Ranking Member Hatch sent a letter to HHS Secretary Sebelius inquiring about the agency's protocol for reviewing and approving or denying requests for waivers from the requirement regarding health plans' annual limits on benefits. Chairman Camp and Senator Hatch expressed concern about the lack of transparency in the waiver process and the failure to conduct appropriate outreach to companies who may be eligible for a waiver. They also asked for the total number of employers that had been granted a waiver.

8. HHS Secretary Sebelius testimony before House Ways and Means Committee February 16<sup>th</sup>, 2011 referencing the Community Living Assistance Services and Support (CLASS) program (P.L. 111-148).

*Description:* The CLASS program is a federal long-term care insurance program that is expected to begin collecting premiums in 2011 to provide cash benefits to covered individuals. However, there have been concerns expressed by the Medicare actuaries and HHS Secretary Sebelius that it will be financially unsustainable as envisioned by the health care law.

*Specific legislative or oversight activities undertaken in response:* Subcommittee Chairman Herger sent letter to HHS on April 13, 2011 requesting that HHS Secretary Sebelius explain what legal authority she was relying on when she said she would modify the CLASS program in order to make the program actuarially sound.

9. HHS letter to Senate Finance Chairman Max Baucus (March 8, 2011).

*Description:* The letter discussed how HHS would operate the Medicare program in response to the House passage of H.R. 1, the House-passed "Full-Year Continuing Appropriations Act," and stated that CMS would be prohibited from using funds under H.R. 1 to pay Medicare Advantage (MA) plans.

*Specific legislative or oversight activities undertaken in response:* On March 09, 2011, Chairman Camp sent a letter with Senate Finance Ranking Member Hatch criticizing HHS for

its assertions regarding the impact of the House-passed Full-Year Continuing Appropriations Act would have on the MA program.

10. HHS regulation regarding Medicare Advantage 2012 payments (CMS-4144-F - Final revisions to Parts C and D programs for CY2012).

*Description:* The regulation implements a new Medicare Advantage quality bonus demonstration program (MA QBP).

*Specific legislative or oversight activities undertaken in response:* Chairman Camp sent a letter with Senate Finance Ranking Member Hatch to HHS Secretary Sebelius on April 13, 2011, outlining concerns with the Administration's authority to implement the MA QBP. This demonstration program was authorized under Section 402 of the Social Security Act, which generally requires such demonstrations to be budget neutral.

However, Medicare actuaries estimated the actual cost of this demonstration to be \$8.3 billion over ten years.

11. Release of President Obama's Framework for Shared Prosperity and Shared Fiscal Responsibility (<http://www.whitehouse.gov/the-press-office/2011/04/13/fact-sheet-presidents-framework-shared-prosperity-and-shared-fiscal-resp>).

*Description:* On April 13, 2011, the President announced that he would seek \$340 billion in savings from the Medicare and Medicaid programs by 2021, \$480 billion by 2023 and at least an additional \$1 trillion in the subsequent decade. His announcement had few details as to how these savings would be achieved.

*Specific legislative or oversight activities undertaken in response:* On April 20, 2011, Chairman Camp and Energy and Commerce Chairman Fred Upton wrote to President Obama requesting specific information regarding his Medicare and Medicaid proposals the President referenced in his April 13, 2011, announcement. The letter requested specific policy details of the President's plan and rationale for his savings estimates, including his proposal to expand the Independent Payment Advisory Board (IPAB).

12. IRS Regulation on Grandfathered Health Plans (REG-118412-10 Notice of Proposed Rulemaking by Cross-Reference to Temporary Regulations Group Health Plans and Health Insurance Coverage Rules Relating to Status as a Grandfathered Health Plan under the Patient Protection and Affordable Care Act).

*Description:* On July 19, 2010, the IRS issued temporary regulations regarding what constituted "grandfathered health plan" status under the provisions of the new health care law in connection with changes in policies, certificates, or contracts of insurance. The Administration estimates that up to 7 in 10 employers will have to change the coverage they offer because they would lose their grandfathered status.

*Specific legislative or oversight activities undertaken in response:* On January 19, 2011, the House passed H.R. 2, legislation repealing the new health law.

On January 26, 2011, the full Committee received testimony on the economic and regulatory burdens imposed by the enactment and implementation of the Patient Protection and Affordable Care Act (P.L. 111-148) and the Health Care and Education Reconciliation Act of 2010 (P.L. 111-152).

13. HHS Letter to Glenn M. Hackbarth, Chairman of the Medicare Payment Advisory Commission (MedPAC). (March 10, 2011).

*Description:* CMS Deputy Administrator Jonathan Blum sent a letter to Mr. Hackbarth providing the CMS estimates of the 2012 physician fee schedule (PFS) conversion factor

update, conversion factor, and sustainable growth rate (SGR), along with the data used in making the estimates.

*Specific legislative or oversight activities undertaken in response:* On May 12, 2011, the Subcommittee held a hearing to explore new models for delivering and paying for services that physicians furnish to Medicare beneficiaries, as the current payment model including the SGR has been determined to be unsustainable.

14. Letter to HHS Secretary Sebelius on Medical Loss Ratio (MLR) Requirements. (July 28, 2011).

*Description:* On, December 1, 2010, HHS issued an Interim Final Regulation, with request for comments, implementing Section of 2718 of Patient Protection and Affordable Care Act (P.L. 111-148), which requires health insurance issuers to meet certain Medical Loss Ratio (MLR) requirements. Michigan's Department of Licensing and Regulatory Affairs Commissioner Clinton applied for an adjustment to these requirements for Michigan's individual market in order to prevent a significant disruption in the market.

*Specific legislative or oversight activities undertaken in response:* Chairman Camp and Chairman Upton wrote HHS in support of Michigan's application for adjustment to the federally-mandated MLR. In addition to supporting Michigan's application, the joint letter noted that such an adjustment would not address the fundamentally flawed law. The Chairmen stated, "MLR requirements will reduce consumers' ability to choose the health plan that best meets their needs and risks disrupting the health insurance coverage... violating President Obama's pledge that if you like the plan you have, you can keep it."

15. Executive Order 13590 Authorizing the Imposition of Certain Sanctions with Respect to the Provisions of Goods, Service, Technology, or Support for Iran's Energy and Petrochemical Sectors (Nov. 21, 2011)

*Description:* Executive order issued to expand sanctions to target the supply of goods, services, technology, or support (above certain monetary thresholds) to Iran for the development of its petroleum resources and maintenance or expansion of its petrochemical industry; designate eleven individuals and entities under Executive Order 13382 for their role in Iran's WMD program; and identify the Islamic Republic of Iran as a jurisdiction of "primary money laundering concern" under section 311 of the USA PATRIOT Act.

*Specific legislative or oversight activities undertaken in response:* Committee staff consulted with Department of Treasury on implementation of the Executive Order.

16. Department of Labor Training and Employment Guidance Letter No. 10-11 (Nov. 18, 2011)

*Description:* Implementation of the TAA Extension Act of 2011.

*Specific legislative or oversight activities undertaken in response:* Committee staff is consulting with Department of Labor on implementation of the changes to the TAA program in 2011.

17. Executive Order 13582 Blocking Property of the Government of Syria and Prohibiting Certain Transactions with Respect to Syria (Aug. 17, 2011)

*Description:* Executive order issued in response to the Government of Syria's violence against its own people.

*Specific legislative or oversight activities undertaken in response:* Committee staff consulted with Departments of Treasury and State on implementation of the Executive Order.

18. Executive Order 13574 Authorizing the Implementation of Certain Sanctions Set Forth in the Iran Sanctions Act of 1996, as Amended (May 23, 2011)

*Description:* Executive order issued to implement the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010.

*Specific legislative or oversight activities undertaken in response:* Committee staff consulted with Department of Treasury on implementation of the Executive Order.

19. Executive Order 13570 Prohibiting Certain Transactions with Respect to North Korea (April 18, 2011)

*Description:* Executive order reiterating the ban on importation of any goods, services, or technology from North Korea.

*Specific legislative or oversight activities undertaken in response:* Committee staff consulted with Departments of Treasury and State on implementation of the Executive Order.

## Appendix I. Jurisdiction of the Committee on Ways and Means

### A. U.S. CONSTITUTION

Article I, Section 7, of the Constitution of the United States provides as follows:

All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

In addition, Article I, Section 8, of the Constitution of the United States provides the following:

The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and...To borrow Money on the credit of the United States.

### B. RULE X, CLAUSE 1, RULES OF THE HOUSE OF REPRESENTATIVES

Rule X, clause 1(t), of the Rules of the House of Representatives, in effect during the 110<sup>th</sup> Congress, provides for the jurisdiction of the Committee on Ways and Means, as follows:

- (t) Committee on Ways and Means.
  - (1) Customs revenue, collection districts, and ports of entry and delivery.
  - (2) Reciprocal trade agreements.
  - (3) Revenue measures generally.
  - (4) Revenue measures relating to insular possessions.
  - (5) Bonded debt of the United States, subject to the last sentence of clause 4(f). Clause 4(f) requires the Committee on Ways and Means to include in its annual report to the Committee on the Budget a specific recommendation, made after holding public hearings, as to the appropriate level of the public debt that should be set forth in the concurrent resolution on the budget.
  - (6) Deposit of public monies.
  - (7) Transportation of dutiable goods.
  - (8) Tax exempt foundations and charitable trusts.
  - (9) National Social Security (except health care and facilities programs that are supported from general revenues as opposed to payroll deductions and except work incentive programs).

### C. BRIEF DESCRIPTION OF COMMITTEE'S JURISDICTION

The foregoing recitation of the provisions of House Rule X, clause 1, paragraph (t), does not convey the comprehensive nature of the jurisdiction of the Committee on Ways and Means. The following summary provides a more complete description:

(1) Federal revenue measures generally—The Committee on Ways and Means has the responsibility for raising the revenue required to finance the Federal Government. This includes individual and corporate income taxes, excise taxes, estate taxes, gift taxes, and other miscellaneous taxes.

(2) The bonded debt of the United States—The Committee on Ways and Means has jurisdiction over the authority of the Federal Government to borrow money. Title 31 of

Chapter 31 of the U.S. Code authorizes the Secretary of the Treasury to conduct any necessary public borrowing subject to a maximum limit on the amount of borrowing outstanding at any one time. This statutory limit on the amount of public debt (“the debt ceiling”) currently is \$14.294 trillion. The Committee’s jurisdiction also includes conditions under which the U.S. Department of the Treasury manages the Federal debt, such as restrictions on the conditions under which certain debt instruments are sold.

(3) National Social Security program—The Committee on Ways and Means has jurisdiction over most of the programs authorized by the Social Security Act, which includes not only those programs that are normally referred to colloquially as “Social Security” but also social insurance programs and a whole series of grant-in-aid programs to State governments for a variety of purposes. The Social Security Act, as amended, contains 21 titles (a few of which have either expired or have been repealed). The principal programs established by the Social Security Act and under the jurisdiction of the Committee on Ways and Means in the 112<sup>th</sup> Congress can be outlined as follows:

(a) Old-age, survivors, and disability insurance (Title II)—At present, there are approximately 157 million workers in employment covered by the program, and for calendar year 2010, \$702 billion in benefits were paid almost 54 million individuals.

(b) Medicare (Title XVIII)—Finances health care benefits through the Hospital Insurance trust fund for 47.1 million persons over the age of 65 and for 7.9 million disabled persons. Finances voluntary health care benefits through the Supplementary Medical Insurance trust fund for 43.8 million aged persons and 7.1 million disabled persons. Total program outlays through these trust funds were \$522.8 billion in 2010.

(c) Supplemental Security Income (SSI) (Title XVI)—The SSI program was inaugurated in January 1974 under the provisions of P.L. 92-603, as amended. It replaced the former Federal-State programs for the needy aged, blind, and disabled. In January 2011, 7.9 million individuals received Federal SSI benefits on a monthly basis. Of these 7.9 million persons, approximately 1.2 million received benefits on the basis of age, and 6.7 million on the basis of blindness or disability. Federal expenditures for cash SSI payments in 2010 totaled \$47.0 billion, while State expenditures for federally administered SSI supplements totaled \$3.7 billion.

(d) Temporary Assistance for Needy Families (TANF) (part A of Title IV)—The TANF program is a block grant of about \$16.5 billion dollars awarded to States to provide income assistance to poor families, to end dependency on welfare benefits, to prevent nonmarital births, and to encourage marriage, among other purposes. In most cases, Federal TANF benefits for individuals are limited to 5

years and individuals must work to maintain their eligibility. In September 2010, about 1.9 million families and 4.6 million individuals received benefits from the TANF program.

(e) Child support enforcement (part D of Title IV)—In fiscal year 2010 Federal administrative expenditures totaled \$5.8 billion for the child support enforcement program. Child support collections for that year totaled \$26.6 billion.

(f) Child welfare, foster care, and adoption assistance (parts B and E of Title IV)—Titles IV B and E provide funds to States for child welfare services for abused and neglected children; foster care for children who meet Aid to Families with Dependent Children eligibility criteria; and adoption assistance for children with special needs. In fiscal year 2010, Federal expenditures for child welfare services totaled \$690 million. Federal expenditures for foster care and adoption assistance were approximately \$7.1 billion.

(g) Unemployment compensation programs (Titles III, IX, and XII)—These titles authorize the Federal-State unemployment compensation program and the permanent extended benefits program. In FY 2010, an estimated \$156.1 billion was paid in unemployment compensation, with approximately 13.9 million workers receiving unemployment compensation payments.

(h) Social services (Title XX)—Title XX authorizes the Federal Government to reimburse the States for money spent to provide persons with various services. Generally, the specific services provided are determined by each State. In fiscal year 2010, \$1.7 billion was appropriated. These funds are allocated on the basis of population.

(4) Trade and tariff legislation—The Committee on Ways and Means has responsibility over legislation relating to tariffs, import trade, and trade negotiations. In the early days of the Republic, tariff and customs receipts were major sources of revenue for the Federal Government. As the Committee with jurisdiction over revenue-raising measures, the Committee on Ways and Means thus evolved as the primary Committee responsible for international trade policy.

The Constitution vests the power to levy tariffs and to regulate international commerce specifically in the Congress as one of its enumerated powers. Statutes including the Reciprocal Trade Agreements Acts beginning in 1934, Trade Expansion Act of 1962, Trade Act of 1974, Trade Agreements Act of 1979, Trade and Tariff Act of 1984, Omnibus Trade and Competitiveness Act of 1988, North American Free Trade Agreement (NAFTA) Implementation Act, Uruguay Round Agreements Act, Trade Act of 2002, and other legislation implementing U.S. obligations under trade agreements implementing bills provide the basis for U.S. bargaining with other countries and the means to achieve the mutual reduction of tariff and nontariff trade barriers under reciprocal trade agreements.

The Committee's jurisdiction includes the following authorities and programs:

(a) The tariff schedules and all tariff preference programs, such as the General System of Preferences, the Caribbean Basin Initiative, the Africa Growth and Opportunity Act, the Andean Trade Preferences Act, and the Haitian Hemispheric Opportunity through Growth Act;

(b) Laws dealing with unfair trade practices, including the antidumping law, countervailing duty law, section 301, and section 337

(c) Other laws dealing with import trade, including section 201 (escape clause), section 232 national security controls, section 22 agricultural restrictions, international commodity agreements, textile restrictions under section 204, and any other restrictions or sanctions affecting imports;

(d) General and specific trade negotiating authority, as well as implementing authority for trade agreements and the grant of normal-trade-relations (NTR) status;

(e) Trade Adjustment Assistance programs for workers, firms, farmers, and communities;

(f) Customs administration and enforcement, including rules of origin and country-of origin marking, customs classification, customs valuation, customs user fees, and U.S. participation in the World Customs Organization (WCO);

(g) Trade and customs revenue functions of the Department of Homeland Security and the Department of the Treasury.

(h) Authorization of the budget for the International Trade Commission (ITC), functions of the Department of Homeland Security under the Committee's jurisdiction (including the Bureaus of Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE), and the Office of the U.S. Trade Representative (USTR).

#### D. REVENUE ORIGINATING PREROGATIVE OF THE HOUSE OF REPRESENTATIVES

The Constitutional Convention debated adopting the British model in which the House of Lords could not amend revenue legislation sent to it from the House of Commons. Eventually, however, the Convention proposed and the States later ratified the Constitution providing that "All bills for raising revenue shall originate in the House of Representatives, but the Senate may propose or concur with amendments as on other bills." (Article 1, Section 7, clause 1.)

In order to pass constitutional scrutiny under this "origination clause," a tax bill must be passed first by the House of Representatives. After the House has completed action on a bill and approved it by a majority vote, the bill is transmitted to the Senate for formal action. The Senate may have already reviewed issues raised by the bill before its transmission. For example, the Senate Committee on Finance frequently holds hearings on tax legislative proposals before the legislation embodying those proposals is transmitted from the House of Representatives. On occasion, the Senate will consider a revenue bill in the form of a Senate or "S." bill, and then await passage of a revenue "H.R." bill from the House. The Senate then will add or substitute provisions of the "S." bill as an amendment to the "H.R." bill and send the "H.R." bill back to the House of Representatives for its concurrence or for conference on the differing provisions.

#### E. THE HOUSE'S EXERCISE OF ITS CONSTITUTIONAL PREROGATIVE: "BLUE SLIPPING"

When a Senate bill or amendment to a House bill infringes on the constitutional prerogative of the House to originate revenue measures, that infringement may be raised in the House as a matter of privilege. That privilege has also been asserted on a Senate amendment to a House amendment to a Senate bill (see 96<sup>th</sup> Congress, 1<sup>st</sup> Session, November 8, 1979, Congressional Record p. H10425).

Note that the House in its sole discretion may determine that legislation passed by the Senate infringes on its prerogative to originate revenue legislation. In the absence of such determination by the House, the Federal courts are occasionally asked to rule a certain revenue measure to be unconstitutional as not having originated in the House (see U.S. v.

Munoz-Flores, 495 U.S. 385 (1990).

Senate bills or amendments to non-revenue bills infringe on the House's prerogative even if they do not raise or reduce revenue. Such infringements are referred to as "revenue affecting." Thus, any import ban which could result in lost customs tariffs must originate in the House (100<sup>th</sup> Congress, 1<sup>st</sup> Session, July 30, 1987 100<sup>th</sup> Congress, 2<sup>nd</sup> Session, June 16, 1988, Congressional Record p. H4356).

Offending bills and amendments are returned to the Senate through the passage in the House of a House Resolution which states that the Senate provision: "in the opinion of the House, contravenes the first clause of the seventh section of the first article of the Constitution of the United States and is an infringement of the privilege of the House and that such bill be respectfully returned to the Senate with a message communicating this resolution" (e.g., 100<sup>th</sup> Congress, 1<sup>st</sup> Session, July 30, 1987, Congressional Record p. H6808). This practice is referred to as "blue slipping" because the resolution returning the offending bill to the Senate is printed on blue paper.

In other cases, the Committee of the Whole House has passed a similar or identical House bill in lieu of a Senate bill or amendment (e.g., 91<sup>st</sup> Congress, 2<sup>nd</sup> Congress, May 11, 1970, Congressional Record pp. H14951-14960). The Committee on Ways and Means has also reported bills to the House which were approved and sent to the Senate in lieu of Senate bills (e.g., 93<sup>rd</sup> Congress, 1<sup>st</sup> Session, November 6, 1973, Congressional Record pp. 36006-36008). In other cases, the Senate has substituted a House bill or delayed action on its own legislation to await a proper revenue affecting bill or amendment from the House (see 95<sup>th</sup> Congress, 2<sup>nd</sup> Session, September 22, 1978, Congressional Record p. H30960; January 22, 1980, Congressional Record p. S107).

Any Member may offer a resolution seeking to invoke Article I, Section 7. However, the determination that a bill violates the Origination Clause has been traditionally made by Members of the Committee on Ways and Means, and the resolution has been offered by the Chairman or another Member of the Committee on Ways and Means. Because Article I, Section 7 involves the privileges of the House, a blue-slip resolution offered by the Chairman or other Members of the Committee on Ways and Means has been typically adopted by voice vote on the House Floor. There have been instances where the House has agreed to not deal directly with the issue by tabling a resolution.<sup>1, 2</sup>

#### BLUE SLIP RESOLUTIONS—98<sup>TH</sup> CONGRESS THROUGH 112<sup>TH</sup> CONGRESS CHRONOLOGICAL LIST

[Resolutions passed by the House returning to the Senate bills passed in violation of the origination clause of the United States Constitution (Clause 1, Section 7 of Article 1)]

| H. Res., sponsor, and date of   | Description of Senate action (and related House action, if any)  |
|---|--|
| House passage<br><b>111<sup>th</sup> Congress:</b><br>H. Res. 1653, Mr. Levin<br>September 23, 2010 | <p data-bbox="846 1528 1438 1713">On August 5, 2010, the Senate passed H.R. 5875, "Emergency Border Supplemental Appropriations Act, 2010" with an amendment. Contained in this legislation was a provision that requiring certain employers to pay a surcharge with respect to each application for a worker visa. The proposed surcharge constituted a revenue measure in the constitutional sense because it would have had a direct impact on Federal revenues.</p> <p data-bbox="846 1745 1438 1953">On March 26, 2010, the Senate passed S. 3162. Contained in this legislation was an amendment to the Internal Revenue Code of 1986, as amended, to clarify the health care provided by the Secretary of Veterans Affairs constitutes minimum essential coverage. The proposed amendment to the Internal Revenue Code constituted a revenue measure in the constitutional sense because it would have had a direct impact on Federal revenues.</p> |

On March 25, 2010, the Senate passed S. 3187, “Federal Aviation Administration Extension Act of 2010.” Contained in this legislation were extensions of fuel and ticket taxes that fund the Airport and Airway Trust Fund. These proposed extensions of taxes constituted revenue measures in the constitutional sense because they would have had a direct impact on Federal revenues.

On January 28, 2010, the Senate passed S. 2799, “Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2009.” Contained in this legislation was a provision banning the importation of imports from Iran. The proposed change in the import laws constituted a revenue measure in the constitutional sense because it would have had a direct impact on customs revenues.

On August 9, 2009, the Senate passed S. 1023, “Travel Promotion Act of 2009.” Contained in this legislation was a provision requiring users of the government’s visa waiver program to pay a surcharge. The proposed surcharge constituted a revenue measure in the constitutional sense because it would have had a direct impact on Federal revenues.

On July 20, 2009, the Senate passed S. 951, “New Frontier Congressional Gold Medal Act.” Contained in this legislation was a provision allowing the Secretary of the Treasury to sell commemorative coins celebrating the 40<sup>th</sup> anniversary of the first landing on the moon. The proposed sale of these coins would have constituted a revenue measure in the constitutional sense because it would have had a direct impact on Federal revenues.

**107<sup>th</sup> Congress:**

H. Res. 240, Mr. Thomas  
September 20, 2001

On September 13, 2001, the Senate passed H.R. 2500, “Making appropriations for the U.S. Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2002, and for other purposes” with an amendment. Contained in this legislation was a provision banning the importation of diamonds not certified as originating outside conflict zones. The proposed change in the import laws constituted a revenue measure in the constitutional sense, because it would have had a direct impact on customs revenues.

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<sup>1</sup>In cases where the Chairman of the Committee on Ways and Means did not believe that the bill in question violated the Origination Clause or the objection had been dealt with in another manner, resolutions offered by other Members of the House have been tabled. [See adoption of motion by Representative Rostenkowski to table H. Res. 571, 97-2, p. 22127.]

<sup>2</sup>This was an instance where the Chairman of the Committee on Ways and Means raised a question of the privilege of the House pursuant to Article I, Section 7, of the U.S. Constitution on H.R. 4516, Legislative Branch Appropriations. The motion was laid on the table.

H. Res. 393, Mr. Weller  
November 18, 1999

On February 24, 1999, the Senate passed S. 4, the Soldiers', Sailors', Airmen's, and Marines' Bill of Rights Act of 1999. The legislation would have allowed members of the Armed Forces to participate in the Federal Thrift Savings Program and to avoid the tax consequences that would otherwise have resulted from certain contributions in excess of the limitations imposed in the Internal Revenue Code. This proposed exemption therefore constituted a revenue measure in the constitutional sense because it would have had a direct impact on Federal revenues.

H. Res. 249, Mr. Portman  
July 16, 1999

On May 20, 1999, the Senate passed S. 254, the Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act of 1999. The legislation would have had the effect of banning the import of large capacity ammunition feeding devices. The proposed change in the import laws constituted a revenue measure in the constitutional sense, because it would have had a direct impact on customs revenues.

**105<sup>th</sup> Congress:**

H. Res. 601, Mr. Crane  
October 15, 1998

On October 8, 1998, the Senate passed S. 361, the Tiger and Rhinoceros Conservation Act of 1998. This legislation would have had the effect of creating a new basis and mechanism for applying import restrictions for products intended for human consumption or application containing (or labeled as containing) any substance derived from tigers or rhinoceroses. The proposed change in the import laws constituted a revenue measure in the constitutional sense, because it would have had a direct impact on customs revenues.

H. Res. 379, Mr. Ensign  
March 5, 1998

On April 15, 1997, the Senate passed S. 104, the Nuclear Waste Policy Act of 1997. This legislation would have repealed a revenue provision and replaced it with a user fee. The revenue provision in question was a fee of 1 mill per kilowatt hour of electricity generated by nuclear power imposed by the Nuclear Waste Policy Act of 1982. The proposed user fee in the legislation would have been limited to the amount appropriated for nuclear waste disposal. The original fee was uncapped, and, in fact, because the fees collected exceeded the associated costs, it was being used as revenue to finance the Federal Government generally. Its proposed repeal, therefore, constituted a revenue measure in the constitutional sense because it would have had a direct impact on Federal revenues.

**104<sup>th</sup> Congress:**

H. Res. 554, Mr. Crane  
September 28, 1996

On June 30, 1996, the Senate passed H.R. 400, the Anaktuvuk Pass Land Exchange and Wilderness Redesignation Act of 1995, with an amendment. Section 204(a) of the Senate amendment would have overridden existing tax law by expanding the definition of actions not subject to Federal, State, or local taxation under the Alaska Native Claims Settlement Act. These changes constituted a revenue measure in the constitutional sense because they would have had a direct impact on Federal revenues.

H. Res. 545, Mr. Archer  
September 27, 1996

On September 25, 1996, the Senate passed S. 1311, the National Physical Fitness and Sports Foundation Establishment Act. Section 2 of the bill would have waived the application of certain rules governing recognition of tax-exempt status for the foundation established under this legislation. This exemption constituted a revenue measure in the constitutional sense because it would have had a direct impact on Federal revenues.

- H. Res. 402, Mr. Shaw  
April 16, 1996
- On January 26, 1996, the Senate passed S. 1463, to amend the Trade Act of 1974. The bill would have changed the authority and procedure for investigations by the ITC for certain domestic agricultural products. Such investigations are a predicate necessary for achieving access to desired trade remedies that the President may order, such as tariff adjustments, tariff-rate quotas, quantitative restrictions, or negotiation of trade agreements to limit imports. By creating a new basis and mechanism for import restrictions under authority granted to the President, the bill constituted a revenue measure in the constitutional sense because it would have had a direct impact on customs revenues.
- H. Res. 387, Mr. Crane  
March 21, 1996
- On February 1, 1996, the Senate passed S. 1518, repealing the Tea Importation Act of 1897. Under existing law in 1996, it was unlawful to import substandard tea, except as provided in the HTS. Changing import restrictions constituted a revenue measure in the constitutional sense because it would have had a direct impact on customs revenues.
- 103<sup>rd</sup> Congress:**  
H. Res. 577, Mr. Gibbons  
October 7, 1994
- On October 3, 1994, the Senate passed S. 1216, the Crow Boundary Settlement Act of 1994. The bill would have overridden existing tax law by exempting certain payments and benefits from taxation. These exemptions constituted a revenue measure in the constitutional sense because they would have had a direct impact on Federal revenues.
- H. Res. 518, Mr. Gibbons  
August 12, 1994
- On July 20, 1994, the Senate passed H.R. 4554, the Agriculture and Rural Development Appropriation for fiscal year 1995, with amendments. Senate amendment 83 would have provided authority for the Food and Drug Administration (FDA) to collect fees to cover the costs of regulation of products under their jurisdiction. However, these fees were not limited to covering the cost of specified regulatory activities, and would have been charged to a broad cross-section of the public (rather than been limited to those who would have benefited from the regulatory activities) to fund the cost of the FDA's activities generally. These fees constituted a revenue measure in the constitutional sense because they were not based on a direct relationship between their level and the cost of the particular government activity for which they would have been assessed, and would have had a direct impact on Federal revenues.
- H. Res. 487, Mr. Gibbons  
July 21, 1994
- On May 25, 1994, the Senate passed S. 1030, the Veterans Health Programs Improvement Act of 1994. A provision in the bill would have exempted from taxation certain payments made on behalf of participants in the Education Debt Reduction Program. This provision constituted a revenue measure in the constitutional sense because it would have had a direct impact on Federal revenues.
- H. Res. 486, Mr. Gibbons  
July 21, 1994
- On May 29, 1994, the Senate passed S. 729, to amend the Toxic Substances Control Act. Title I of the bill included several provisions to prohibit the importation of specific categories of products which contained more than specified quantities of lead. By establishing these import restrictions, the bill constituted a revenue measure in the constitutional sense because it would have had a direct impact on customs revenues.
- H. Res. 479, Mr. Rangel  
July 14, 1994
- On June 22, 1994, the Senate passed H.R. 4539, the Treasury, Postal Service, and General Government Appropriation for fiscal year 1995, with amendments. Senate amendment 104 would have prohibited the Treasury from using appropriations to enforce the Internal Revenue Code requirement for the use of undyed diesel fuel in recreational motorboats. This prohibition, therefore, constituted a revenue measure in the constitutional sense because it would have had a direct impact on Federal revenues.
- 102<sup>nd</sup> Congress:**  
H. Res. 373, Mr. Rostenkowski  
February 25, 1992
- On August 1, 1991, the Senate passed S. 884 amended, the Driftnet Moratorium Enforcement Act of 1991; This legislation would require the President to impose economic sanctions against countries that fail to eliminate large-scale driftnet fishing. Foremost among the sanction provisions are those which impose a ban on certain imports into the United States from countries which continue to engage in driftnet fishing on the high seas after a certain date. These changes in our tariff laws constitute a revenue measure in the constitutional sense, because they would have a direct effect on customs revenues.
- H. Res. 267, Mr. Rostenkowski  
October 31, 1991
- On February 20, 1991, the Senate passed S. 320, to reauthorize the Export Administration Act of 1979. This legislation contains several provisions which impose, or authorize the imposition of, a ban on imports into the United States. Among the provisions containing import sanctions are those relating to certain practices by Iraq, the proliferation and use of chemical and biological weapons, and the transfer of missile technology. These changes in our tariff laws constitute a revenue measure in the

constitutional sense, because they would have a direct effect on customs revenues.

H. Res. 251, Mr. Russo  
October 22, 1991

On July 11, 1991, the Senate passed S. 1241, the Violent Crime Act of 1991. This legislation contains several amendments to the Internal Revenue Code. Section 812(f) provides that the police corps scholarships established under the bill would not be included in gross income for tax purposes. In addition, sections 1228, 1231, and 1232 each make amendments to the Tax Code with respect to violations of certain firearms provisions. Finally, Title VII amends section 922 of Title VIII of the U.S. Code, making it illegal to transfer, import or possess assault weapons. These changes in our tariff and tax laws constitute revenue measures in the constitutional sense, because they would have an immediate impact on revenues anticipated by U.S. Customs and the Internal Revenue Services.

**101<sup>st</sup> Congress:**

H. Res. 287, Mr. Cardin  
Nov. 9, 1989.

On August 4, 1989, the Senate passed S. 686, the Oil Pollution Liability and Compensation Act of 1989. This legislation contained a provision which would have allowed a credit against the oil spill liability tax for amounts transferred from the Trans-Alaska Pipeline Trust Fund to the Oil Spill Liability Trust Fund.

H. Res. 177, Mr. Rostenkowski  
June 15, 1989

On Apr. 19, 1989, the Senate passed S. 774, the Financial Institution Reform, Recovery and Enforcement Act of 1989. This legislation would create two corporations to administer the financial assistance under the bill: the Resolution Trust Corporation and the Resolution Financing Corporation. S. 774 would have conferred tax-exempt status to these two corporations. Without these two tax provisions, these two corporations would be taxable entities under the Federal income tax.

**100<sup>th</sup> Congress:**

H. Res. 235, Mr. Rostenkowski  
July 30, 1987.

On Mar. 30, 1987, the Senate passed S. 829, legislation which would authorize appropriations for the ITC, the U.S. Customs Service, and the Office of the U.S. Trade Representative for fiscal year 1988, and for other purposes. In addition, the bill contained a provision relating to imports from the Soviet Union which amends provisions of the Tariff Act of 1930.

H. Res. 474, Mr. Rostenkowski  
June 16, 1988 (see also  
H.R. 3391).

On Oct. 6, 1987, the Senate passed S. 1748, legislation which would prohibit the importation into the United States of all products from Iran. (The House passed H.R. 3391, which included similar provisions, on Oct. 6, 1987.)

H. Res. 479, Mr. Rostenkowski  
June 21, 1988 (see also  
H.R. 2792 and H.R. 4333).

On May 13, 1987, the Senate passed S. 727, legislation which would clarify Indian treaties and Executive orders with respect to fishing rights. This legislation dealt with the tax treatment of income derived from the exercise of Indian treaty fishing rights. (The House passed H.R. 2792, which included similar provisions, on June 20, 1988, under suspension of the rules and was enacted into law as part of P.L. 100-647, H.R. 4333.)

H. Res. 544, Mr. Rostenkowski  
Sept. 23, 1988 (see also H.R.  
1154)

On Sept. 9, 1988, the Senate passed S. 2662, the Textile and Apparel Trade Act of 1988. This legislation would impose global import quotas on textiles and footwear products.

H. Res. 552, Mr. Rostenkowski  
Sept. 28, 1988

On Sept. 9, 1988, the Senate passed S. 2763, the Genocide Act of 1988. This legislation contained a ban on the importation of all oil and oil products from Iraq.

H. Res. 603, Mr. Rostenkowski  
Oct. 21, 1988.

On Mar. 30, 1988, the Senate passed S. 2097, the Uranium Mill Tailings Remedial Action Amendments of 1987. This legislation would establish a Federal fund to assist in the financing of reclamation and other remedial action at currently active uranium and thorium processing sites and would increase the demand for domestic uranium. The fund would be financed in part by what are called "mandatory fees" which are equal to \$22 per kilogram for uranium contained in fuel assemblies initially loaded into civilian nuclear power reactors during calendar years 1989-1993. In addition, S. 2097 would impose charges on domestic utilities that use foreign-source uranium in new fuel assemblies loaded in their nuclear reactors.

H. Res. 604, Mr. Rostenkowski  
Oct. 21, 1988.

On Aug. 8, 1988, the Senate passed H.R. 1315, legislation which would authorize appropriations for the Nuclear Regulatory Commission for fiscal years 1988 and 1989. Title IV of the legislation would, among other things, establish a Federal fund to assist in the financing of reclamation and other remedial action at currently active uranium and thorium processing sites and would assist the domestic uranium industry by increasing the demand for domestic uranium. The fund would be financed in part by what are called "mandatory fees" equal to \$72 per kilogram of uranium contained in fuel assemblies

initially loaded into civilian nuclear power reactors on or after Jan. 1, 1988. These fees would be paid by licensees of civilian nuclear power reactors and would be in place until \$1 billion had been raised.

**99<sup>th</sup> Congress:**

H. Res. 283, Mr. Rostenkowski  
Oct. 1, 1985.

On Sept. 26, 1985, the Senate passed S. 1712, legislation which would extend the 16-cents-per-pack cigarette excise tax rate for 45 days, through Nov. 14, 1985. (The House passed H.R. 3452, which included a similar extension, on Sept. 30, 1985.)

H. Res. 562, Mr. Rostenkowski  
Sept. 25, 1986.

The Senate passed S. 638, legislation to provide for the sale of Conrail to the Norfolk Southern Railroad. The legislation contained numerous provisions relating to the tax treatment of the sale of Conrail.

**98<sup>th</sup> Congress:**

H. Res. 195, Mr. Rostenkowski  
June 17, 1983.

On Apr. 21, 1983, the Senate passed S. 144, a bill to insure the continued expansion of international market opportunities in trade, trade in services and investment for the United States, and for other purposes.

#### F. PREROGATIVE UNDER THE RULES OF THE HOUSE OVER "REVENUE MEASURES GENERALLY"

In the House of Representatives, tax legislation is initiated by the Committee on Ways and Means. The Committee's exclusive prerogative to report "revenue measures generally" is provided by Rule X(1)(t) of the Rules of the House of Representatives. The jurisdiction of the Committee on Ways and Means under Rule X(1)(t) is protected through the exercise of Rule XXI(5)(a) which states:

A bill or joint resolution carrying a tax or tariff measure may not be reported by a committee not having jurisdiction to report tax or tariff measures, and an amendment in the House or proposed by the Senate carrying a tax or tariff measure shall not be in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction. A point of order against a tax or tariff measure in such a bill, joint resolution, or amendment thereto may be raised at any time during pendency of that measure for amendment.

Based on the precedents of the House, especially those involving Rule XXI(5)(a), the following statements can be made concerning points of order made under the Rule.

1. **Timeliness.** The point of order can be raised at any point during consideration of the bill. However, that section of the bill in which the "tax or tariff provision lies must either have been previously read or currently open for amendment. A point of order may not be raised after the Committee of the Whole has risen and reported the bill to the House. A point of order against an amendment must be made prior to its adoption.

2. **Effect.** If a point of order is sustained, the effect is that the provision in the bill or amendment is automatically deleted.

3. **Substance over form.** A provision need not involve an amendment to the Internal Revenue Code or the Harmonized Tariff Schedule in order to be determined to be a "tax or tariff" provision.

4. **Revenue decreases and increases.** A provision need not raise revenue in order to

be found to be a “tax or tariff measure.” Provisions which would have the effect of decreasing revenues are also covered by the Rule. Similarly, provisions which could have a revenue effect have been determined to be covered by the Rule.

The following is a detailed listing of each of the occasions on which points of order have been sustained:

G. POINTS OF ORDER—HOUSE RULE XXI CHRONOLOGICAL LIST

*June 28, 2007*

*H.R. 2829, Financial Services and General Government Appropriations Act, 2008*

A point of order was raised against Section 106 of the bill, which would have limited funds to the IRS for the purpose of renewing, extending, administering, implementing or enforcing any qualified tax collection contract. Mr. Serrano conceded the point of order. The point of order was sustained, and the provision was stricken from the bill. [110-1, H7352]

*June 13, 2006*

*H.R. 5576, Transportation, Treasury, Housing and Urban Development, the Judiciary, and Related Agencies Appropriations Act, 2007*

A point of order was raised against Section 206 of the bill, which would have limited funds to the IRS and prohibit its ability to provide and tax preparation software or online tools. The chair ruled that the provision was in violation of Rule XXI, clause 2. The point of order was sustained, and the provision was stricken from the bill. [109-2, H3849-3850]

*June 14, 2006*

*H.R. 5576, Transportation, Treasury, Housing and Urban Development, the Judiciary, and Related Agencies Appropriations Act, 2007*

A point of order was raised against an amendment offered by Representative Tiahrt, which would have limited funds to the IRS and prohibit its ability to provide and tax preparation software or online tools.

Representative Tiahrt withdrew his amendment. [109-2, H3930]

*May 23, 2006*

*H.R. 5384, Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2007*

A point of order was raised against an amendment offered by Representative

DeLauro, which would have increased the bill's appropriation for waste and water grant programs by \$689 million and paid for this increase by reducing the size of the tax cut for those making over one million dollars.

The chair ruled that the provision proposes to change existing law and constitutes legislation on an appropriations bill and, therefore, violates clause 2 of Rule XXI. The point of order was sustained, and the amendment was not in order. [109-2, H3063]

*May 19, 2006*

*H.R. 5385, Military Construction and Veterans Affairs and Related Agencies Appropriations Act, 2007*

Points of order were raised against three amendments offered by Representatives Edwards, Farr, and Obey, which would have raised taxes to offset program funding increases.

The chair ruled that these provisions proposed to change existing law and constituted legislation on an appropriations bill and, therefore, violated clause 2 of Rule XXI. The points of order were sustained, and the amendments were not in order. [109-2, H2922-2931]

*June 30, 2005*

*H.R. 3058, Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act, 2006*

A point of order was raised against an amendment offered by Representative Simmons, which would have limited the use of funds to enter into, implement, or provide oversight of contracts between the Secretary of the Treasury, or his designee, and private collection agencies. Representative Simmons withdrew his amendment. [109-1, H3640]

*June 29, 2005*

*H.R. 3058, Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act, 2006*

A point of order was raised against section 218 of the bill, which would direct the Secretary of the Treasury to submit to the Committees on Appropriations a report defining currency manipulation and what actions would be construed as another nation manipulating its currency, and describing how statutory provisions addressing currency manipulation by America's trading partners contained in, and relating to, title 22 U.S.C. 5304, 5305, and 286y can be better clarified administratively to provide for improved and more predictable evaluation. The chair ruled that the provision was in violation of Rule XXI, clause 2. The point of order was sustained, and the provision was stricken from the bill. [109-1, H5422]

June 14, 2005

*H.R. 2862, Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006*

A point of order was raised against an amendment offered by Representative Obey, which would have increased funding for the EDA by \$53 million and paid for this increase by reducing the size of the tax cut for those making over one million dollars.

*The chair ruled that the provision proposes to change existing law and constitutes legislation on an appropriations bill and, therefore, violates clause 2 of Rule XXI. The point of order was sustained, and the amendment was not in order. [109-1, H4437]*

May 26, 2005

*H.R. 2528, Military Quality of Life and Veterans Affairs Appropriations Act, 2006*

A point of order was raised against an amendment offered by Representative Obey, which would have increased the bill's appropriation for veterans medical care by \$2.6 billion and paid for this increase by reducing the size of the tax cut for those making over one million dollars.

*The chair ruled that the provision proposes to change existing law and constitutes legislation on an appropriations bill and, therefore, violates clause 2 of Rule XXI. The point of order was sustained, and the amendment was not in order. [109-1, H4106]*

May 19, 2005

*H.R. 2361, Department of the Interior, Environment, and Related Agencies  
Appropriations Act, 2006*

*A point of order was raised against an amendment offered by Representative Obey, which would have increased the bill's appropriation for the Clean Water State Revolving Fund by \$500,000 and paid for this increase by reducing the size of the tax cut for those making over one million dollars.*

*The chair ruled that the provision proposes to change existing law and constitutes legislation on an appropriations bill and, therefore, violates clause 2 of Rule XXI. The point of order was sustained, and the amendment was not in order. [109-1, H3640]*

May 17, 2005

*H.R. 2360, Department of Homeland Security Appropriations Act, 2006*

A point of order was raised against an amendment offered by Representative Obey, which would have increased the bill's appropriation for Customs and Border Protection

and paid for this increase by reducing the size of the tax cut for those making over one million dollars.

*The chair ruled that the provision proposes to change existing law and constitutes legislation on an appropriations bill and, therefore, violates clause 2 of Rule XXI. The point of order was sustained, and the amendment was not in order. [109-1, H3398]*

*September 14, 2004*

*H.R. 5025, Transportation, Treasury, and Independent Agencies Appropriations Act, 2005*

A point of order was raised against section 644 of the bill, which would have amended section 6402 of the Internal Revenue Code of 1986 by adding a new subsection that allows for the offset of federal tax refunds to collect delinquent state unemployment compensation overpayments. The chair ruled that the provision was in violation of Rule XXI, clause 2. The point of order was sustained, and the provision was stricken from the bill. [108-2, H7176]

*September 14, 2004*

*H.R. 5025, Transportation, Treasury, and Independent Agencies Appropriations Act, 2005*

A point of order was raised against section 643 of the bill, which would have amended section 453(j) of the Social Security Act to allow access to data in the National Directory of New Hires for use in collecting delinquent non-tax federal debt. The chair ruled that the provision was in violation of Rule XXI, clause 2. The point of order was sustained, and the provision was stricken from the bill. [108-2, H7176]

*September 14, 2004*

*H.R. 5025, Transportation, Treasury, and Independent Agencies Appropriations Act, 2005*

A point of order was raised against section 642 of the bill, which would have amended Title 31 of the U.S. Code to allow the Federal Government to collect debts that are more than 10 years old by withholding federal tax refunds or garnishing Social Security benefits. The chair ruled that the provision was in violation of Rule XXI, clause 2. The point of order was sustained, and the provision was stricken from the bill. [108-2, H7176]

*September 9, 2004*

*H.R. 5006, Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2005*

A point of order was raised against an amendment offered by Representative Brown (OH), which would have stopped the increase of Part B Medicare premiums, effectively

leaving them at their current dollar amount. The chair ruled that the provision would provide new budget authority in excess of the suballocation provided by the Appropriations Committee, and therefore violated section 302(f) of the Congressional Budget Act of 1974. The point of order was sustained, and the amendment was not in order. [108-2, H6945]

*September 8, 2004*

*H.R. 5006, Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2005*

A point of order was raised against section 219(b) of the bill, which created a Medicare claims processing fee for duplicative or incorrect claims for Medicare Part A or B services. The chair ruled that the provision was in violation of Rule XXI. The point of order was conceded, sustained, and the provision was stricken from the bill. [108-2, H6836]

*June 18, 2004 H.R. 4567, Department of Homeland Security Appropriations Act, 2005*

A point of order was raised against an amendment offered by Representative Sherman, which would have limited the funds made available in this Act for processing the importation of any article which is the product of Iran. The chair ruled that the provision was in violation of clause 5(a) of Rule XXI. The point of order was sustained, and the amendment was not in order. [108-2, p. H4551]

*July 10, 2003*

*H.R. 2660, Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2004*

A point of order was raised against section 217(B) of the bill, which created a Medicare Claims Processing fee. An October 1, 2003, requirement assured a policy for providers to submit all Medicare claims electronically. Since most electronic billing systems eliminate inaccurate and duplicate claims, and because current law provided the proper small business exemption, the user fee was unnecessary. The chair ruled that the provision was in violation of Rule XXI, clause 2(b). The point of order was conceded, sustained, and the provision was stricken from the bill. [108-1, p. H6560]

*July 10, 2003*

*H.R. 2660 Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2004*

A point of order was raised against an amendment offered by Representative Obey, which would have provided a 1-percentage add-on to the Federal assistance to every State for their Medicaid programs. This would have been paid for through a reduction in the size of the tax cut for persons who make more than \$1 million a year. The chair ruled that the amendment constituted legislation in violation of Rule XXI, clause 2 (c), and in addition, constituted a tax measure in violation of Rule XXI, clause 5(a). The point of order was conceded and sustained. [108-1, p. H6547]

*July 23, 2003*

*H.R. 2799, Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations, Act 2004*

A point of order was raised against an amendment offered by Representative Levin, which would forbid expenditure of funds that would be used to negotiate free trade agreements that did not contain certain listed provisions, which imposed new duties that were not required by law and made the appropriations contingent upon the performance of said duties and on successful trade negotiations with other countries. The chair ruled that the provision was in violation of Rule XXI, clause 2. The point of order was sustained. [108-1, p. H7337-7339]

*September 4, 2003*

*H.R. 2989, Transportation, Treasury, and Independent Agencies Appropriations Act, 2004*

A point of order was raised against portions of section 631 of the bill, which would have amended the Trade Agreements Act of 1979. The provision exempted limitations on procurement. The chair ruled that the provision was in violation of Rule XXI, clause 2(b). The point of order was conceded, sustained and the language was stricken from the bill. [108-1, p. H7913]

*September 4, 2003*

*H.R. 2989, Transportation, Treasury, and Independent Agencies Appropriations Act, 2004*

A point of order was raised against the contents of Section 164 of the bill, which amended the Buy America requirements for transit capital purchases of steel, iron, manufactured goods, and rolling stock. The chair ruled that these provisions were in violation of Rule XXI. The point of order was conceded, sustained, and the section was stricken from the bill. [108-1, p. H7912-7913]

*September 8, 1999*

*H.R. 2684, U.S. Departments of Veterans Affairs and Housing and Urban Development Appropriations For 2000*

A point of order was raised against an amendment offered by Representative Edwards, which would have offset an increase in funding for veterans' health care by postponing the implementation of a capital gains tax cut. The chair Ruled that the amendment constituted legislation in violation of Rule XXI, clause 2(c), and, in addition, constituted a tax measure in violation of Rule XXI, clause 5(a). The point of order was sustained, and the amendment ruled not in order. [106-1, p. H7923]

*September 3, 1997*

*H.R. 2159, Foreign Operations Appropriations for Fiscal Year 1998*

A point of order was raised against section 539 of the bill, which would have restricted the President's ability to issue an executive order lifting import sanctions against Yugoslavia (Serbia). The Chair ruled that since current law allowed the President to waive the application of certain sanctions, including import prohibitions which affect tariff collections, the provision in question was a tariff measure within the meaning of Rule XXI, clause 5(b). The point of order was sustained, and the provision stricken from the bill. [105-1, p. H 6731]

*July 17, 1996*

*H.R. 3756, Treasury, Postal Service, and General Government  
Appropriations Act of 1997*

A point of order was raised against an amendment which prohibited the use of funds by the United States Customs Service to take any action that allowed certain imports into the United States from the People's Republic of China. The point of order was sustained. [104-2, p. H 7708]

*May 9, 1995*

*H.R. 1361, Coast Guard Authorization*

A point of order was raised against an amendment which increased certain fees for large foreign-flag cruise ships. The Chair ruled that by increasing the fees charged by the Coast Guard for inspecting large foreign-flag cruise ships by an unspecified amount in order to offset a decrease in fees for other vessels, the amendment attenuated the relationship between the amount of the fee and the cost of the particular government activity for which it was assessed. Therefore the increased fee qualified as a tax or tariff within the meaning of Rule XXI, clause 5(b). The point of order was sustained, and the amendment ruled out of order. [1-4-1, p. H 4593]

*June 15, 1994*

*H.R. 4539, Treasury, Postal Service, and General Government  
Appropriation for Fiscal Year 1995*

A point of order was raised against section 527 of the bill, which would have amended the HTS to create a new tariff classification. The new classification would have changed the rate of duty on the import of certain fabrics intended for use in the manufacture of hot air balloons, thus having direct impact on customs revenues. The point of order was conceded and sustained, and the provision was stricken from the bill. [103-2, p. H 4531]

*September 16, 1992*

*H.R. 5231, The National Competitiveness Act of 1992*

A point of order was raised against an amendment offered by Representative Walker. The bill was reported solely from the Committee on Science and Technology and amended the Internal Revenue Code to provide, inter alia, changes in the tax treatment of capital gains.

The Chair sustained the point of order without elaboration. [H102- p. H8621]

*October 23, 1990*

*H.R. 5021, Department of Commerce, Justice and State, the Judiciary and Related Agencies Appropriations Act, 1991*

A point of order was raised against amendment 139 which increased the rate of fees paid to the Securities and Exchange Commission at the time of filing a registration statement. The Chair ruled that since the amendment provided that the increased level of fees would be deposited in the Treasury, the fee involved was in reality a tax and the revenues were to be used to defray general governmental costs. The point of order was conceded and sustained. [101-2, p. H 11412]

*July 13, 1990*

*H.R. 5241, Treasury, Postal Service and General Government Appropriations Act of 1991*

A point of order was raised against section 528 which prohibited that “no funds appropriated” would be used to impose or assess any tax under section 4181 of the Internal Revenue Code relating to the excise tax on the manufacture of firearms. The point of order was conceded and sustained. [101-2, p. H 4692]

*July 13, 1990*

*H.R. 5241, Treasury, Postal Service and General Government Appropriations Act of 1991*

A point of order was raised against section 524 which prohibited the Internal Revenue Service from enforcing rules governing the antidiscrimination rules of the exclusion for employer provided health-care plans (section 89 of the Internal Revenue Code). The point of order was conceded and sustained. [101-2, p. H 4692]

*October 5, 1989*

*H.R. 3299, Omnibus Budget Reconciliation Act of 1989*

A point of order was raised against section 3201 which imposed fees on the filing of certain forms required to be filed annually in connection with maintaining pension and benefit plans. The point of order was sustained with the Chair ruling that the revenue

raised funded “general government activity.” [101-1, p. H 6662]

*October 4, 1989 H.R. 3299, Omnibus Budget Reconciliation Act of 1989*

A point of order was raised against section 3156 which imposed a “Termination Fee.” Under the provision of the bill, an employer who terminated a pension plan in a standard termination was required to pay a \$200-per-participant fee to the Pension Benefit Guaranty Corporation (PBGC), the Federal insurance agency established to insure defined benefit pension plans against insolvency. The point of order was conceded and sustained. [101-1, p. H 6621]

*October 4, 1989*

*H.R. 3299, Omnibus Budget Reconciliation Act of 1989*

A point of order was raised against section 3131(b) which exempted multi-employer pension plans from the full funding limits of the Internal Revenue Code, section 412(c)(7). This provision directly amended the Internal Revenue Code to allow the deductibility of contributions to a multi-employer pension plan in excess of the full funding limit. The point of order was conceded and sustained. [101-1, p. H 6622]

*October 4, 1989*

*H.R. 3299, Omnibus Budget Reconciliation Act of 1989*

A point of order was raised against section 7002 which imposed an annual fee of \$1 per acre on the holder of Outer Continental Shelf leases. This fee has been designated to offset the costs of ocean related environmental research, assessment, and protection programs. The point of order was sustained with the Chair stating that a provision raising revenue to finance general government functions improperly characterized as a tax within the jurisdiction of Clause 5(b) of Rule XXI. [101-1, p. H 6610]

*October 4, 1989*

*H.R. 3299, Omnibus Budget Reconciliation Act of 1989*

A point of order was raised against section 7002 which imposed a fee of \$20 per passenger on vessels engaged in U.S. cruise trade or which offer off-shore gambling. The proceeds of this fee were to be deposited in both the Harbor Maintenance Trust Fund and the Treasury’s general fund. The point of order was conceded and sustained. [101-1, p. H 6620]

*September 30, 1988*

*H.R. 4637, Conference Agreement to accompany the Foreign Operations, Export Financing and Related Programs Appropriations Act of 1989*

A point of order was raised against the motion to concur in the Senate amendment No. 176 which provided that S. 2848 (Sanctions Against Iraqi Chemical Weapons Use Act), be added to the bill. The point of order was conceded and sustained. [100-2, p. H 9236]

*June 25, 1987*

*H.R. 3545, Budget Reconciliation Act of 1987*

A point of order was raised against the section of the bill providing that “all earnings and distributions” from the Enjebi Community Trust Fund, “shall not be subject to any form of Federal, State, or local taxation.” The point of order was conceded and sustained. [100-1, p. H 5539-40]

*August 1, 1986*

*H.R. 5294, Appropriations, Treasury, Postal Service and General Government Appropriations, 1987*

A point of order was raised against section 103 which denied funds to the Internal Revenue Service to impose vesting requirements for qualified pension funds more stringent than 4/40. As a result, legally collectible taxes on employer contributions to such plans would be indefinitely deferred. The point of order was conceded and sustained. [99-2, p. H 5311]

*August 1, 1986*

*H.R. 5294, Appropriations, Treasury, Postal Service and General Government Appropriations, 1987*

A point of order was raised against section 3 which prohibited the use of funds to implement regulations issued by the Department of the Treasury to implement section 274(d) of the Internal Revenue Code relating to the duty imposed on taxpayers to substantiate deductibility of certain expenses relating to travel, gifts, and entertainment.

The Chair sustained the point of order stating that a limitation otherwise in order under Clause 2(c), of House Rule XXI which “effectively and inherently either preclude[s] the IRS from collecting revenues otherwise due to be [owed] under provision of the Internal Revenue Code or require[s] the collection of revenue not legally due and owing constitutes a tax provision within the meaning of Rule XXI, Clause 5(b).”

The Chair also noted that when the point of order was raised that under the Rule the point of order against the provision could be raised at any point during the consideration of the bill. [99-2, p. H 5310]

*October 24, 1986*

*H.R. 3500, Budget Reconciliation Act of 1985*

A point of order was raised against section 3113. The provision in the reconciliation bill reported from the Budget Committee contained a recommendation from the Committee on Education and Labor to exclude certain interest on obligations to Student Loan Marketing Association from Application of Internal Revenue Code (IRC), section 265 which denies a deduction for certain expenses and interest relating to the production of tax-exempt income. The point of order was sustained. [99-1, p. H 5310]

*October 24, 1985*

*H.R. 3500, Budget Reconciliation Act of 1985*

A point of order was raised against section 6701 which had been reported from the Committee on the Budget containing a recommendation of the Committee on Merchant Marine and Fisheries. Section 6701 expanded tax benefits available to ship owners through the "capital construction fund" (section 7518 of the IRC), by permitting repatriation of foreign-source income to avoid U.S. taxes and expanding the definition of vessels eligible to establish such tax-exempt funds. [99-1, p. H 9189]

*July 26, 1985*

*H.R. 3036, Appropriations, Treasury, Postal Service, and General Government Appropriation, 1986*

A point of order was raised against section 106 which prohibited the use of funds to implement or enforce regulations imposing or collecting a tax on the interest deferral from entrance or accommodation fees paid by elderly residents of continuing care facilities (section 7872 of the Internal Revenue Code). The Chair sustained the point of order against the provision as a tax provision within the meaning of House Rule XXI, Clause 5(b). [99-1, p. H 6418]

*July 11, 1985*

*H.R. 1555, International Security and Development Act of 1985*

A point of order was raised against section 1208, which denied trade benefits to Afghanistan, provided for the denial of most favored nation status to Afghanistan and denied trade credits to Afghanistan. The point of order was conceded and sustained. [99-1, p. H 5489]

*June 4, 1985*

*H.R. 1460, Anti-Apartheid Act of 1985*

A point of order was raised against an amendment to prohibit the entry of South African Krugerrands or gold coins into the customs territory of the United States unless uniform 5 percent fee were paid. The point of order was sustained on the grounds that the fee was equivalent to a tariff uniform charge imposed at ports of entry with proceeds deposited in the Treasury. [99-1, p. H 3762]

*September 12, 1984*

*H.R. 5798, conference report to accompany the Appropriations, Treasury, Postal Service, Executive Office of the President and certain independent agencies Appropriation, 1985*

A point of order was raised against a Senate amendment, No. 92 which amended the existing customs law under the Tariff Act of 1930 with respect to seizures and forfeitures of property by the Customs Service. The point of order was conceded and sustained. [98-2, p. H 9407]

*September 12, 1984*

*H.R. 5798, conference report to accompany the Appropriations, Treasury, Postal Service, Executive Office of the President and certain independent agencies Appropriation, 1985*

A point of order was raised against a Senate amendment, No. 26 which amended the tariff schedule of the United States (TSUS) to provide duty-free importation of a telescope for the University of Arizona. The point of order was conceded and sustained. [98-2, p. H 9396]

*September 12, 1984*

*H.R. 5798, conference report to accompany the, Treasury, Postal Service, Executive Office of the President and certain independent agencies, 1985*

A point of order was raised against a Senate amendment, No. 24 which provided that "none of the funds appropriated by this act or any other act" shall be used to impose of assess the manufacturer's excise tax on sporting goods. The point of order specifically stated that the term "tax" and "tariff" under House Rule XXI, Clause 5(b), included provisions such as these contained in the amendment which would result less revenue spent than under the operation of existing law. The point of order was conceded and sustained. [98-2, p. H 9395-9396]

*October 27, 1983*

*H.R. 4139, conference report to accompany the Treasury, Postal Service, Executive Office of the President and certain independent agencies, 1984*

The Chair sustained a point of order against section 511 which would have prohibited the Customs Service from enforcing a provision of law permitting agricultural products to enter the United States duty-free under the CBI. The Chair ruled that the effect of the provision was to cause duties on certain imports to be imposed where none is required and to require collections of revenue contrary to existing tariff laws and that, as a result, section 511 was a tariff provision rather than a limitation of appropriated funds. [98-1, p. H 8717]

*September 21, 1983*

*H.R. 1036, Community Renewal Employment Act*

The Chair sustained a point of order against a motion to recommit a bill to a committee without jurisdiction over revenue measures (the Committee on Education and Labor), and to report the bill back to the House with tax provisions relating to “enterprise zones.” The motion was ruled to violate House Rule XVI, Clause 7, and House Rule XXI Clause 5(b). [98-1, p. H 7244]

#### H. RESTRICTIONS ON “FEDERAL INCOME TAX RATE INCREASES”

House Rule XXI, clause 5(b) requires a supermajority 3/5 vote for any bill containing a prospective Federal income tax rate increase and clause 5(c) prohibits retroactive Federal income tax rate increases.

The wording of the Rule and its legislative history make it clear that the Rule applies only to increases in specific statutory rates in the Internal Revenue Code and not to provisions merely because they raise revenue or otherwise modify the income tax base.

## Appendix II. Historical Note

The Committee on Ways and Means was first established as an ad hoc committee in the first session of the First Congress, on July 24, 1789.<sup>1</sup> Representative Fitzsimons, from Pennsylvania, in commenting on the report of a select committee concerning appropriations and revenues, pointed out the desirability of having a committee to review the expenditure needs of the Government and the resources available, as follows:

*The finances of America have frequently been mentioned in this House as being very inadequate to the demands. I have ever been of a different opinion, and do believe that the funds of this country, if properly drawn into operation, will be equal to every claim. The estimate of supplies necessary for the current year appears very great from a report on your table, and which report has found its way into the public newspapers. I said on a former occasion, and I repeat it now, notwithstanding what is set forth in the estimate, that a revenue of \$3 million in specie, will enable us to provide every supply necessary to support the Government, and pay the interest and installments on the foreign and domestic debt. If we wish to have more particular information on these points, we ought to appoint a Committee on Ways and Means, to whom, among other things, the estimate of supplies may be referred, and this ought to be done speedily, if we mean to do it this session.<sup>2</sup>*

After discussion, the motion was agreed to and a committee consisting of one Member from each State (North Carolina and Rhode Island had not yet ratified the Constitution) was appointed as follows: Messrs. Fitzsimons (Pennsylvania), Vining (Delaware), Livermore (New Hampshire), Cadwalader (New Jersey), Laurance (New York), Wadsworth (Connecticut), Jackson (Georgia), Gerry (Massachusetts), Smith (Maryland), Smith (South Carolina), and Madison (Virginia).

While there does not appear to be any direct relationship, it is interesting to note that the appointment of this ad hoc committee came within a few weeks after the House, in Committee of the Whole, had spent a good part of the months of April, May, and June in wrestling with the details involved in writing bills for laying a duty on goods, wares, and merchandises imported into the United States and for imposing duties on tonnage. Tariffs, of course, became a prime revenue source for the new government.

However, the results of this ad hoc committee are not clear. It existed for a period of only 8 weeks, being dissolved on September 17, 1789, with the following order:

*That the Committee on Ways and Means be discharged from further proceeding on the business referred to them, and that it be referred to*

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<sup>1</sup> 1 Cong. Rec. 696

<sup>2</sup> 1 Cong. Rec. 696

*the Secretary of the Treasury to report thereon.*<sup>3</sup>

It has also been suggested that the Committee was dissolved because Alexander Hamilton had become Secretary of the newly created U.S. Department of the Treasury, and thus it was presumed that the U.S. Department of the Treasury could provide the necessary machinery for developing information which would be needed. During the next 6 years there was no Committee on Ways and Means or any other standing committee for the examination of estimates. Rather, ad hoc committees were appointed to draw up particular pieces of legislation on the basis of decisions made in the Committee of the Whole House. On November 13, 1794, a Rule was adopted providing that:

All proceedings touching appropriations of money shall be first moved and discussed in a Committee on the Whole House.<sup>4</sup>

Historians have suggested that, during the next Congress, the House was determined to curtail Secretary Hamilton's influence by first setting up a Committee on Ways and Means and requiring that Committee to submit a report on appropriations and revenue measures before consideration in the Committee of the Whole House. It was also said that this Committee on Ways and Means was put on a more or less standing basis since such a committee appeared at some point in every Congress until it was made a permanent committee.

In the first session of the 7<sup>th</sup> Congress, Tuesday, December 8, 1801, a resolution was adopted as follows:

*Resolved*, That a standing Committee on Ways and Means be appointed, whose duty it shall be to take into consideration all such reports of the Treasury Department, and all such propositions, relative to the revenue as may be referred to them by the House; to inquire into the state of the public debt, of the revenue, and of the expenditures; and to report, from time to time, their opinion thereon.<sup>5</sup>

The following Members were appointed: Messrs. Randolph (Virginia), Griswold (Connecticut), Smith (Vermont), Bayard (Delaware), Smilie (Pennsylvania), Read (Massachusetts), Nicholson (Maryland), Van Rensselaer (New York), Dickson (Tennessee).

On Thursday, January 7, 1802, the House agreed to standing Rules which, among other things, provided for standing committees, including the Committee on Ways and Means. The relevant part of the Rules in this respect read as follows:

*A Committee on Ways and Means, to consist of seven Members;*<sup>6</sup>

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*It shall be the duty of the said Committee on Ways and Means to take*

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<sup>3</sup> 1 Cong. Rec. 930

<sup>4</sup> 3 Cong. Rec. 881

<sup>5</sup> 7 Cong. Rec. 312

<sup>6</sup> 7 Cong. Rec. 412

*into consideration all such reports of the U.S. Department of the Treasury, and all such propositions relative to the revenue, as may be referred to them by the House; to inquire into the state of the public debt, of the revenue, and of the expenditures, and to report, from time to time, their opinion thereon; to examine into the state of the several public departments, and particularly into the laws making appropriations of moneys, and to report whether the moneys have been disbursed conformably with such laws; and also to report, from time to time, such provisions and arrangements, as may be necessary to add to the economy of the departments, and the accountability of their officers.*<sup>7</sup>

It has been said that the jurisdiction of the Committee was so broad in the early 19<sup>th</sup> century that one historian described it as follows:

It seemed like an Atlas bearing upon its shoulders all the business of the House.<sup>8</sup>

The jurisdiction of the Committee remained essentially the same until 1865 when the control over appropriations was transferred to a newly created Committee on Appropriations and another part of its jurisdiction was given to a newly created Committee on Banking and Currency. This action followed rather extended discussion in the House, too lengthy to review here.

During the course of that discussion, however, the following observations are of some historical interest. Representative Cox, who was handling the motion to divide the Committee, presented a detailed description of the varied and heavy duties which had fallen on the Committee over the years. He observed:

And yet, sir, powerful as the Committee is constituted, even their powers of endurance, physical and mental, are not adequate to the great duty which has been imposed by the emergencies of this historic time. It is an old adage, that whoso wanteth rest will also want of might; and even an Olympian would faint and flag if the burden of Atlas is not relieved by the broad shoulders of Hercules.

He continued:

I might give here a detailed statement of the amount of business thrown upon that Committee since the commencement of the war. But I prefer to append it to my remarks. Whereas before the war we scarcely expended more than \$70 million a year, now, during the five sessions of the last two Congresses, there has been an average appropriation of at least \$800 million per session. The statement which I hold in my hand shows that during the first and extra session of the 37<sup>th</sup> Congress there came appropriation bills from the Committee on Ways and Means amounting to \$226,691,457.99. I say nothing now of the loan and other fiscal bills emanating from that Committee ... During the present session I suppose it would be a fair estimate to take the appropriations of the last session of the 37<sup>th</sup> Congress, say \$900 million.

These are appropriation bills alone. They are stupendous, and but poorly symbolize

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<sup>7</sup> 7 Cong. Rec. 412

<sup>8</sup> Alexander, De Alva Stanwood. *History and Procedure of the House of Representatives*. 1916

the immense labors which the internal revenue, tariff, and loan bills imposed on the Committee ... And this business of appropriations is perhaps not one-half of the labor of the Committee. There are various and important matters upon which they act, but upon which they never report. Their duties comprehend all the varied interests of the United States; every element and branch of industry, and every dollar or dime of value. They are connected with taxation, tariffs, banking, loan bills, and ramify to every fiber of the body-politic. All the springs of wealth and labor are more or less influenced by the action of this Committee. Their responsibility is immense, and their control almost imperial over the necessities, comforts, homes, hopes, and destinies of the people. All the values of the United States, which in the census of 1860 (page 194) amount to nearly \$17 billion, or, to be exact, \$16,159,616,068, are affected by the action of that Committee, even before their action is approved by the House. Those values fluctuate whenever the head of the Committee on Ways and Means rises in his place and proposes a measure. The price of every article we use trembles when he proposes a gold bill or a loan bill, or any bill to tax directly or indirectly ... the interests connected with these economical questions are of all questions those most momentous for the future. Parties, statesmanship, union, stability, all depend upon the manner in which these questions are dealt with.<sup>9</sup>

Representative Morrill (who was subsequently appointed chairman of the Committee on Ways and Means in the succeeding Congress, and who still later became chairman of the Senate Committee on Finance after he became a Senator) observed as follows:

I am entirely indifferent as to the disposition which shall be made of this subject by the House. So far as I am myself concerned, I have never sought any position upon any committee from the present or any other Speaker of the House, and probably never shall. I have no disposition to press myself hereafter for any position. In relation to the proposed division of the Committee on Ways and Means, the only doubt that I have is the one expressed by my colleague on that Committee, Representative Stevens, in regard to the separation of the questions of revenue from those relating to appropriations. In ordinary times of peace I should deem it almost indispensable and entirely within their power that this Committee should have the control of both subjects, in order that they might make both ends meet, that is, to provide a sufficient revenue for the expenditures. That reason applies now with greater force; but it may be that the Committee is overworked. It is true that for the last 3 or 4 years the labors of the Committee on Ways and Means have been incessant, they have labored not only days but nights; not only weekends but Sundays. If gentlemen suppose that the Committee have permitted some appropriations to be reported which should not have been permitted they little understand how much has been resisted.<sup>10</sup>

The influence the Committee came not only from the nature of its jurisdiction but also because for many years the chairman of the Committee was also ad hoc majority Floor leader of the House.

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<sup>9</sup> 39 Cong. Rec. 1312

<sup>10</sup> 39 Cong. Rec. 1316

When the revolt against Speaker Cannon occurred in 1910, and the Speaker's powers to appoint the Members of committees were curtailed, the Majority Members on the Committee on Ways and Means became the Committee on Committees. Subsequently, this power was disbursed to the respective party caucuses, beginning in the 94<sup>th</sup> Congress.

Throughout its history, many famous Americans have served on the Committee on Ways and Means. The long and distinguished list includes 8 Presidents of the United States, 8 Vice Presidents, four Justices of the Supreme Court, 34 Cabinet members, and quite interestingly, 21 Speakers of the House of Representatives. This latter figure represents nearly one-half of the 51 Speakers who have served since 1789 through the end of the 110<sup>th</sup> Congress. See the alphabetical list which follows for names.

*Major positions held by former members of the Committee on Ways and Means*

President of the United States:

George H. W. Bush, Texas  
 Millard Fillmore, New York  
 James A. Garfield, Ohio  
 Andrew Jackson, Tennessee  
 James Madison, Virginia  
 William McKinley, Jr., Ohio  
 James K. Polk, Tennessee  
 John Tyler, Virginia

Vice President of the United States:

John C. Breckinridge, Kentucky  
 George H. W. Bush, Texas  
 Charles Curtis, Kansas  
 Millard Fillmore, New York  
 John N. Garner, Texas  
 Elbridge Gerry, Massachusetts  
 Richard M. Johnson, Kentucky  
 John Tyler, Virginia

Justice of the Supreme Court:

Philip P. Barbour, Virginia  
 Joseph McKenna, California  
 John McKinley, Alabama  
 Fred M. Vinson, Kentucky (Chief Justice)

Speaker of the House of Representatives:

Nathaniel P. Banks, Massachusetts  
 Philip P. Barbour, Virginia  
 James G. Blaine, Maine  
 John G. Carlisle, Kentucky

Langdon Cheves, South Carolina  
 James B. (Champ) Clark, Missouri  
 Howell Cobb, Georgia  
 Charles F. Crisp, Georgia  
 John N. Garner, Texas  
 John W. Jones, Virginia  
 Michael C. Kerr, Indiana  
 Nicholas Longworth, Ohio  
 John W. McCormack, Massachusetts  
 James K. Polk, Tennessee  
 Henry T. Rainey, Illinois  
 Samuel J. Randall, Pennsylvania  
 Thomas B. Reed, Maine  
 Theodore Sedgwick, Massachusetts  
 Andrew Stevenson, Virginia  
 John W. Taylor, New York  
 Robert C. Winthrop, Massachusetts

Cabinet Member:

Secretary of State:

James G. Blaine, Maine  
 William J. Bryan, Nebraska  
 Cordell Hull, Tennessee<sup>2</sup>  
 Louis McLean, Delaware  
 John Sherman, Ohio

Secretary of the Treasury:

George W. Campbell, Tennessee  
 John G. Carlisle, Kentucky  
 Howell Cobb, Georgia  
 Thomas Corwin, Ohio  
 Charles Foster, Ohio  
 Albert Gallatin, Pennsylvania  
 Samuel D. Ingham, Pennsylvania  
 Louis McLean, Delaware  
 Ogden L. Mills, New York  
 John Sherman, Ohio  
 Philip F. Thomas, Maryland  
 Fred M. Vinson, Kentucky

Attorney General:

James P. McGranery, Pennsylvania  
 Joseph McKenna, California  
 A. Mitchell Palmer, Pennsylvania

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<sup>2</sup>Recipient of Nobel Peace Prize in 1945.

Caesar A. Rodney, Delaware

Postmaster General:

Samuel D. Hubbard, Connecticut

Cave Johnson, Tennessee

Horace Maynard, Tennessee

William L. Wilson, West Virginia

Secretary of the Navy:

Thomas W. Gilder, Virginia

Hilary A. Herbert, Alabama

Victor H. Metcalf, California

Claude A. Swanson, Virginia

Secretary of the Interior:

Rogers C. B. Morton, Maryland

Jacob Thompson, Mississippi

Secretary of Commerce and Labor:

Victor H. Metcalf, California

Secretary of Commerce:

Rogers C. B. Morton, Maryland

Secretary of Agriculture:

Clinton P. Anderson, New Mexico

**Appendix III. Statistical Review of the Activities of the  
Committee on Ways and Means  
(January 5, 2011 – May 31, 2011)**

A. NUMBER OF BILLS AND RESOLUTIONS REFERRED TO THE COMMITTEE

As of May 31, 2012 there have been a total of 2,317 bills referred to the Committee, representing 39.4 percent of all the public bills introduced in the House of Representatives.

The following table gives a more complete statistical review since 1967.

TABLE 1. NUMBER OF BILLS AND RESOLUTIONS REFERRED TO THE COMMITTEE,  
90<sup>TH</sup> THROUGH 112<sup>TH</sup> CONGRESSES

| —                          | Introduced in House | Referred to Committee<br>on Ways and Means | Percentage |
|----------------------------|---------------------|--|------------|
| 90 <sup>th</sup> Congress  | 24,227              | 3,806                                      | 15.7       |
| 91 <sup>st</sup> Congress  | 23,575              | 3,442                                      | 14.6       |
| 92 <sup>nd</sup> Congress  | 20,458              | 3,157                                      | 15.4       |
| 93 <sup>rd</sup> Congress  | 21,096              | 3,370                                      | 16         |
| 94 <sup>th</sup> Congress  | 19,371              | 3,747                                      | 19.3       |
| 95 <sup>th</sup> Congress  | 17,800              | 3,922                                      | 22         |
| 96 <sup>th</sup> Congress  | 10,196              | 2,337                                      | 22.9       |
| 97 <sup>th</sup> Congress  | 9,909               | 2,377                                      | 26.4       |
| 98 <sup>th</sup> Congress  | 8,104               | 1,904                                      | 23.5       |
| 99 <sup>th</sup> Congress  | 7,522               | 1,568                                      | 20.8       |
| 100 <sup>th</sup> Congress | 7,043               | 1,419                                      | 22.1       |
| 101 <sup>st</sup> Congress | 7,640               | 1,737                                      | 22.7       |
| 102 <sup>nd</sup> Congress | 7,771               | 1,972                                      | 25.4       |
| 103 <sup>rd</sup> Congress | 6,645               | 1,496                                      | 22.5       |
| 104 <sup>th</sup> Congress | 5,329               | 1,071                                      | 20.1       |
| 105 <sup>th</sup> Congress | 5,976               | 1,509                                      | 25.2       |
| 106 <sup>th</sup> Congress | 6,942               | 1,762                                      | 25.3       |
| 107 <sup>th</sup> Congress | 7,029               | 1,941                                      | 27.6       |
| 108 <sup>th</sup> Congress | 6,953               | 1,541                                      | 22.2       |
| 109 <sup>th</sup> Congress | 8,152               | 2,152                                      | 26.4       |
| 110 <sup>th</sup> Congress | 9,319               | 2,386                                      | 25.6       |
| 111 <sup>th</sup> Congress | 8,780               | 1,764                                      | 20.1       |
| 112 <sup>th</sup> Congress | 5,876               | 2,317                                      | 39.4       |

## B. PUBLIC HEARINGS

During the First Session and the first five months of Second Session of the 112th Congress, the Committee on Ways and Means along with its six Subcommittees held numerous public hearings. Many of these hearings dealt with broad subject matter including the President's fiscal year 2012 budget proposals, tax reform, health and Social Security issues, and Free Trade Agreements with Colombia, Panama and South Korea.

As the statistics below indicate, during the First Session and the first five months of Second Session of the 112th Congress, the full Committee and its six Subcommittees held public hearings aggregating a total of 77 days, during which time 394 witnesses testified. There was one field hearing.

The following table specifies the statistical data on the number of days and witnesses on each of the subjects covered by public hearings in the full Committee during the 112<sup>th</sup> Congress—as of May 31, 2012.

TABLE 2—PUBLIC HEARINGS CONDUCTED BY THE FULL COMMITTEE  
ON WAYS AND MEANS  
(JANUARY 5, 2011 –MAY 31, 2012)

| Subject and Date  | Number of – |           |
|---|-------------|-----------|
|   | Days        | Witnesses |
| 2011:   |             |           |
| First in a Series of Hearings on Tax Reform, January 20.....  | 1           | 5         |
| Hearing on the Pending Trade Agreements with Colombia, Panama, and South Korea and the Creation of U.S. Jobs, January 25.....                               | 1           | 5         |
| Hearing on the Health Care Law's Impact on Jobs, Employers, and the Economy, January 26.....  | 1           | 4         |
| Hearing on President Obama's Trade Policy Agenda, February 9.....   | 1           | 1         |
| Hearing on the Health Care Law's Impact on the Medicare Program and its Beneficiaries, February 10.....   | 1           | 2         |
| Hearing on the President's Fiscal Year 2012 Budget Proposal With Treasury Secretary Timothy Geithner, February 15.....                                      | 1           | 1         |
| Hearing on the President's Fiscal Year 2012 Budget Proposal with U.S. Department of Health and Human Services Secretary Kathleen Sebelius, February 16..... | 1           | 1         |
| Hearing on the President's Fiscal Year 2012 Budget Proposal with Office of Management and Budget Director Lew, February.....                                | 1           | 1         |
| Hearing on Impediments to Job Creation, March 30.....   | 1           | 4         |
| Hearing on How the Tax Code's Burdens on Individuals and Families Demonstrate the Need for Comprehensive Tax Reform, April 13.....                          | 1           | 4         |
| Hearing on the Need for Comprehensive Tax Reform to Help American Companies Compete in the Global Market and Create Jobs for American Workers, May 12.....  | 1           | 7         |

|   |    |    |
|---|----|----|
| Hearing on How Other Countries Have Used Tax Reform to Help Their Companies Compete in the Global Market and Create Jobs, May 24..... | 1  | 5  |
| Hearing on How Business Tax Reform can Encourage Job Creation, June 2.....  | 1  | 6  |
| Joint Hearing with Senate Finance on Tax Reform and the Tax Treatment of Debt and Equity, July 13.....                                | 1  | 5  |
| Hearing on Tax Reform and Consumption-Based Tax Systems, July 21.....   | 1  | 9  |
| Hearing on Economic Models Available to the Joint Committee on Taxation for Analyzing Tax Reform Proposals, September 21.....         | 1  | 4  |
| Hearing on the U.S.-China Economic Relationship, October 25.....  | 1  | 2  |
| Joint Tax Hearing on Treatment of Financial Products, December 6.....   | 1  | 4  |
| Total for 2011.....   | 18 | 65 |

## 2012:

|  |    |    |
|--|----|----|
| Hearing on the Interaction of Tax and Financial Accounting on Tax Reform, February 8..   | 1  | 5  |
| Hearing on the President's Fiscal Year 2013 Budget Proposal with U.S. Department of the Treasury Secretary Timothy F. Geithner, February 15.....                     | 1  | 1  |
| Hearing on the President's Fiscal Year 2013 Budget Proposal with U.S. Department of Health and Human Services Secretary Kathleen Sebelius, February 28.....          | 1  | 1  |
| Hearing on President Obama's Trade Policy Agenda with U.S. Trade Representative Ron Kirk and Second Panel on the Future of U.S. Trade Negotiations, February 29..... | 1  | 5  |
| Hearing on the Treatment of Closely-Held Businesses in the Context of Tax Reform, March 7.....   | 1  | 6  |
| Hearing on Tax Reform and Tax-Favored Retirement Accounts, April 17.....   | 1  | 5  |
| Total for 2012.....  | 6  | 23 |
| Total for 112 <sup>th</sup> Congress.....  | 24 | 88 |

The six Subcommittees of the Committee on Ways and Means were also very active in conducting public hearings during the First Session and the first five months of Second Session of the 112<sup>th</sup> Congress. The following table specifies in detail the number of days and witnesses for each of the Subcommittees.

Table 3.—PUBLIC HEARINGS CONDUCTED BY THE SUBCOMMITTEES OF THE COMMITTEE ON WAYS AND MEANS  
(January 5, 2011 –May 31, 2012)

| Subject and Date  | Number of – |           |
|---|-------------|-----------|
|   | Days        | Witnesses |
| SUBCOMMITTEE ON SOCIAL SECURITY   |             |           |
| 2011:   |             |           |
| Hearing on Managing Costs and Mitigating Delays in the Building of Social Security's New National Computer Center, February 11..... | 1           | 3         |
| Hearing on Role of Social Security Numbers in Identity Theft and Options to Guard   |             |           |

|  |    |    |
|--|----|----|
| Their Privacy, April 13 MEDPACs Annual March Report to Congress, April 3.....  | 1  | 3  |
| Hearing on the Social Security Administration's Role in Verifying<br>Employment Eligibility, April 14.....               | 1  | 5  |
| Hearing on Social Security's Payment Accuracy, June 14.....  | 1  | 5  |
| Hearing on Social Security's Finances, June 23.....  | 1  | 6  |
| Hearing on Social Security's Finances, July 8.....   | 1  | 6  |
| Hearing on the Role of Social Security Administrative Law Judges, July 11.....   | 1  | 2  |
| Hearing on Social Security Numbers and Child Identity Theft, September 1.....  | 1  | 5  |
| Hearing on Work Incentives in Social Security Disability Programs, September 23.....                                     | 1  | 6  |
| First in a Hearing Series on Securing the Future of the Social Security Disability<br>Insurance Program, December 2..... | 1  | 3  |
| Total 2011.....  | 10 | 44 |

2012:

|   |    |    |
|---|----|----|
| Second in a Hearing Series on Securing the Future of the Social Security<br>Disability Insurance Program, January 24..... | 1  | 4  |
| Hearing on Social Security's Death Records, February 2.....   | 1  | 6  |
| Third in a Hearing Series on Securing the Future of the Social Security Disability<br>Insurance Program, March 20.....    | 1  | 6  |
| Hearing on Identity Theft and Tax Fraud, May 8.....   | 1  | 5  |
| Hearing on The State of Social Security's Information Technology, May 9.....  | 1  | 5  |
| Total 2012.....   | 5  | 26 |
| Total for both sessions.....  | 15 | 70 |

SUBCOMMITTEE ON TRADE

2011:

|  |   |    |
|--|---|----|
| First in a Series of Three Trade Subcommittee Hearings on Pending, Job- Creating<br>Trade Agreements: Columbia Trade Agreement March 17..... | 1 | 7  |
| Second in a Series of Three Hearings on the Pending, Job-Creating Trade<br>Agreements: Panama Trade Agreement, March 30.....                 | 1 | 6  |
| Third in a Series of Three Hearings on the Pending, Job-Creating trade Agreements:<br>South Korea Trade Agreement, April 7.....              | 1 | 5  |
| Hearing on the U.S.-China Economic Relationship, October 20.....   | 1 | 2  |
| Hearing on the Trans-Pacific Partnership, December 14.....   | 1 | 4  |
| Total for 2011.....  | 5 | 24 |

2012:

|   |   |    |
|---|---|----|
| Hearing on Supporting Economic Growth and Job Creation through<br>Customs Trade Modernization, Facilitation, and Enforcement, May 17..... | 1 | 8  |
| Total for 2012.....   | 1 | 8  |
| Total for both sessions.....  | 6 | 32 |

SUBCOMMITTEE ON HEALTH

2011:

|  |   |    |
|--|---|----|
| Hearing on MEDPACs Annual March Report to Congress, March 15.....  | 1 | 1  |
| Joint Health and Oversight Subcommittee Hearing on AARP's<br>Organizational Structure and Finances, April 1..... | 1 | 3  |
| Hearing on Reforming Medicare Physician Payments, May 12.....  | 1 | 4  |
| Hearing on the 2011 Medicare Trustees Report, June 22.....   | 1 | 2  |
| Hearing on Health Care Industry Consolidation, September 9.....  | 1 | 5  |
| Hearing on Expiring Medicare Provider Payment Policies, September 21.....  | 1 | 5  |
| Total.....   | 6 | 20 |

2012:

|  |   |   |
|--|---|---|
| Hearing on Programs that Reward Physicians Who Deliver High Quality and<br>Efficient Care, February 7..... | 1 | 5 |
| Hearing on the Independent Payment Advisory Board, March 6.....  | 1 | 4 |

|  |    |    |
|--|----|----|
| Hearing on the Individual and Employer Mandates in the Democrats' Health Care Law, March 29..... | 1  | 8  |
| Hearing on Medicare Premium Support Proposals, April 27.....                                     | 1  | 4  |
| Hearing on the Medicare Durable Medical Equipment Competitive Bidding Program, May 9.....        | 1  | 6  |
| Total.....   | 5  | 22 |
| Total for both sessions.....   | 11 | 42 |

SUBCOMMITTEE ON OVERSIGHT

2011:

|   |   |    |
|---|---|----|
| Hearing on Improving Efforts to Combat Health Care Fraud, March 2.....  | 1 | 5  |
| Hearing on Internal Revenue Service Operations and the 2011 Tax Return Filing Season, March 31.....           | 1 | 1  |
| Joint Health and Oversight Subcommittee Hearing on AARP's Organizational Structure and Finances, April 1..... | 1 | 3  |
| Hearing on the Transparency and Funding of State and Local Pensions, May 5.....                               | 1 | 5  |
| Hearing on Improper Payments in the Administration of Refundable Tax Credits May 25.....                      | 1 | 4  |
| Hearing on Social Security's Payment Accuracy, June 14.....   | 1 | 5  |
| Hearing on New IRS Paid Tax Return Preparer Program, July 28.....   | 1 | 7  |
| Hearing on Energy Tax Policy and Tax Reform, September 22.....  | 1 | 12 |
| Hearing on Small Business Health Insurance Tax Credit, November 15.....                                       | 1 | 5  |
| Total for 2011.....   | 9 | 47 |

2012:

|   |    |    |
|---|----|----|
| Hearing on Harbor Maintenance Funding and Maritime Tax Issues, February 1.....  | 1  | 6  |
| Hearing on Internal Revenue Service Operations and the 2012 Tax Return Filing Season, March 22.....                                       | 1  | 1  |
| Hearing on the Impact of Limitations on the Use of Tax-Advantaged Accounts for the Purchase of Over-the-Counter Medication, April 25..... | 1  | 5  |
| Hearing on Identity Theft and Tax Fraud, May 8.....   | 1  | 5  |
| Hearing on Tax Exempt Organizations, May 16.....  | 1  | 5  |
| Total for 2012.....   | 5  | 22 |
| Total for both sessions.....  | 14 | 69 |

SUBCOMMITTEE ON HUMAN RESOURCES

2011:

|   |   |    |
|---|---|----|
| Hearing on Improving Efforts to Help Unemployed Americans Find Jobs, Jobs, February 10.....   | 1 | 4  |
| Hearing on the Use of Data Matching to Improve Customer Service, Program Integrity, and Taxpayer Savings, March 11.....                       | 1 | 5  |
| Hearing on GAO Report on Duplication of Government Programs; Focus on Welfare and Related Programs, April 5.....                              | 1 | 3  |
| Hearing on Improving Programs designed to Protect At-Risk Youth, June 16.....   | 1 | 8  |
| Hearing on Child Deaths Due to Maltreatment, July 12.....   | 1 | 6  |
| Hearing on Improving Work and Other Welfare Reform Goals, September 8.....  | 1 | 5  |
| Hearing on Work Incentives in Social Security Disability Programs, September 23.....  | 1 | 6  |
| Hearing on Moving From Unemployment Checks to Paychecks: Assessing the President's Proposals to Help the Long-Term Unemployed, October 6..... | 1 | 7  |
| Hearing on Supplemental Security Income Benefits for Children, October 27.....  | 1 | 5  |
| Total for 2011.....   | 9 | 49 |

2012:

|   |   |   |
|---|---|---|
| Hearing on No-Cost Improvements to Child Support Enforcement, March 20.....                                     | 1 | 4 |
| Hearing on the Use of Technology to Better Target Benefits and Eliminate Waste, Fraud, and Abuse, April 19..... | 1 | 6 |
| Hearing on Moving from Unemployment Checks to Paychecks: Implementing Recent Reforms, April 25.....             | 1 | 6 |

|  |    |    |
|--|----|----|
| Hearing on State TANF Spending and Its Impact on Work Requirements, May 17 ..... | 1  | 5  |
| Total for 2012 .....   | 4  | 21 |
| Total for both sessions.....   | 13 | 70 |

SUBCOMMITTEE ON SELECT REVENUE MEASURES

2011:

|   |   |    |
|---|---|----|
| Select Revenue Measures Subcommittee Hearing on Small Businesses and Tax Reform March 3.....        | 1 | 4  |
| Select Revenue Measures Subcommittee Hearing on the Tax-Related Provisions of H.R. 3. March 16..... | 1 | 1  |
| Hearing on Tax Reform and Foreign Investment in the United States, June 23.....                     | 1 | 7  |
| Hearing on Energy Tax Policy and Tax Reform, September 22.....                                      | 1 | 12 |
| Hearing on Ways and Means International Tax Reform Discussion Draft, November 17.....               | 1 | 5  |
| Total for 2011.....   | 5 | 29 |

2012:

|  |   |    |
|--|---|----|
| Hearing on Harbor Maintenance Funding and Maritime Tax Issues, February 1..... | 1 | 6  |
| Hearing on Certain Expiring Tax Provisions, April 26.....                      | 1 | 25 |
| Total for 2012 .....   | 2 | 31 |
| Total for both sessions.....   | 7 | 60 |

C. MARKUP SESSIONS

With respect to markup or business sessions during the First Session and the first five months of Second Session of the 112th Congress, the full Committee and its six Subcommittees were also very actively engaged. The full Committee held such sessions on 15 working days.

D. NUMBER AND FINAL STATUS OF BILLS REPORTED FROM THE COMMITTEE ON WAYS AND MEANS IN THE 112<sup>TH</sup> CONGRESS  
(JANUARY 5, 2011 – May 31, 2012)

During the First Session and the first five months of Second Session of the 112th Congress, the Committee reported to the House a total of 18 bills favorably. There were 43 bills containing provisions within the purview of the Committee that were passed by the House; 23 were enacted into law. This is not indicative of the total number of bills considered by the Committee.

**Appendix IV. Chairmen of the Committee on Ways and Means and  
Membership of the Committee from the 1<sup>st</sup> through the 112<sup>th</sup> Congresses**

**A. CHAIRMEN OF THE COMMITTEE ON WAYS AND MEANS, 1789 TO PRESENT**

| Name                | State          | Party                      | Term of Service     |
|---------------------|----------------|----------------------------|---------------------|
| Thomas Fitzsimons   | Pennsylvania   | Federalist                 | 1789                |
| William L. Smith    | South Carolina | Federalist                 | 1794 to 1797.       |
| Robert G. Harper    | South Carolina | Federalist                 | 1797 to 1800.       |
| Roger Griswold      | Connecticut    | Federalist                 | 1800 to 1801.       |
| John Randolph       | Virginia       | Jeffersonian<br>Republican | 1801 to 1805, 1827. |
| Joseph Clay         | Pennsylvania   | Jeffersonian<br>Republican | 1805 to 1807.       |
| George W. Campbell  | Tennessee      | Jeffersonian<br>Republican | 1807 to 1809.       |
| John W. Eppes       | Virginia       | Jeffersonian<br>Republican | 1809 to 1811.       |
| Ezekiel Bacon       | Massachusetts  | Jeffersonian<br>Republican | 1811 to 1812.       |
| Langdon Cheves      | South Carolina | Jeffersonian<br>Republican | 1812 to 1813.       |
| John W. Eppes       | Virginia       | Jeffersonian<br>Republican | 1813 to 1815.       |
| William Lowndes     | South Carolina | Jeffersonian<br>Republican | 1815 to 1818.       |
| Samuel Smith        | Maryland       | Jeffersonian<br>Republican | 1818 to 1822.       |
| Louis McLane        | Delaware       | Jeffersonian<br>Republican | 1822 to 1827.       |
| George McDuffie     | South Carolina | Democrat                   | 1827 to 1832.       |
| Gulian C. Verplanck | New York       | Democrat                   | 1832 to 1833.       |
| James K. Polk       | Tennessee      | Democrat                   | 1833 to 1835.       |
| C. C. Cambreleng    | New York       | Democrat                   | 1835 to 1839.       |
| John W. Jones       | Virginia       | Democrat                   | 1839 to 1841.       |
| Millard Fillmore    | New York       | Whig                       | 1841 to 1843.       |
| James Iver McKay    | North Carolina | Democrat                   | 1843 to 1847.       |
| Samuel F. Vinton    | Ohio           | Whig                       | 1847 to 1849.       |
| Thomas H. Bayly     | Virginia       | Democrat                   | 1849 to 1851.       |
| George S. Houston   | Alabama        | Democrat                   | 1851 to 1855.       |
| Lewis D. Campbell   | Ohio           | Republican                 | 1855 to 1857.       |
| J. Glancy Jones     | Pennsylvania   | Democrat                   | 1857 to 1858.       |
| John S. Phelps      | Missouri       | Democrat                   | 1858 to 1859.       |
| John Sherman        | Ohio           | Republican                 | 1859 to 1861.       |

|                                  |                |            |                             |
|----------------------------------|----------------|------------|-----------------------------|
| Thaddeus Stevens                 | Pennsylvania   | Republican | 1861 to 1865.               |
| Justin S. Morrill                | Vermont        | Republican | 1865 to 1867.               |
| Robert C. Schneck                | Ohio           | Republican | 1867 to 1871.               |
| Samuel D. Hooper                 | Massachusetts  | Republican | 1871                        |
| Henry L. Dawes                   | Massachusetts  | Republican | 1871 to 1875.               |
| William R. Morrison              | Illinois       | Democrat   | 1875 to 1877.               |
| Fernando Wood                    | New York       | Democrat   | 1877 to 1881.               |
| John R. Tucker                   | Virginia       | Democrat   | 1881                        |
| William D. Kelley                | Pennsylvania   | Republican | 1881 to 1883.               |
| William R. Morrison              | Illinois       | Democrat   | 1883 to 1887.               |
| Roger Q. Mills                   | Texas          | Democrat   | 1887 to 1889.               |
| William McKinley, Jr.            | Ohio           | Republican | 1889 to 1891.               |
| William M. Springer              | Illinois       | Democrat   | 1891 to 1893.               |
| William L. Wilson                | West Virginia  | Democrat   | 1893 to 1895.               |
| Nelson Dingley, Jr.              | Maine          | Republican | 1895 to 1899.               |
| Sereno E. Payne                  | New York       | Republican | 1899 to 1911.               |
| Oscar W. Underwood               | Alabama        | Democrat   | 1911 to 1915.               |
| Claude Kitchin                   | North Carolina | Democrat   | 1915 to 1919.               |
| Joseph W. Fordney                | Michigan       | Republican | 1919 to 1923.               |
| William R. Green                 | Iowa           | Republican | 1923 to 1928.               |
| Willis C. Hawley                 | Oregon         | Republican | 1929 to 1931.               |
| James W. Collier                 | Mississippi    | Democrat   | 1931 to 1933.               |
| Robert L. Doughton               | North Carolina | Democrat   | 1933 to 1947, 1949 to 1953. |
| Harold Knutson                   | Minnesota      | Republican | 1947 to 1949.               |
| Daniel A. Reed                   | New York       | Republican | 1953 to 1955.               |
| Jere Cooper                      | Tennessee      | Democrat   | 1955 to 1957.               |
| Wilbur D. Mills                  | Arkansas       | Democrat   | 1957 to 1975.               |
| Al Ullman                        | Oregon         | Democrat   | 1975 to 1981.               |
| Dan Rostenkowski                 | Illinois       | Democrat   | 1981 to 1994.               |
| Sam Gibbons, Acting Chairman     | Florida        | Democrat   | 1994 to 1995                |
| Bill Archer                      | Texas          | Republican | 1995 to 2001.               |
| William W. Thomas                | California     | Republican | 2001 to 2007.               |
| Charles B. Rangel                | New York       | Democrat   | 2007 to 2010.               |
| Sander M. Levin, Acting Chairman | Michigan       | Democrat   | 2010 to 2011.               |
| Dave Camp                        | Michigan       | Republican | 2011-                       |

## B. TABLES SHOWING PAST MEMBERSHIP OF THE COMMITTEE

### 1. MEMBERS OF THE COMMITTEE ON WAYS AND MEANS FROM THE 1<sup>ST</sup> THROUGH THE 112<sup>TH</sup> CONGRESS, BY STATE [Beginning with the 104<sup>th</sup> Congress, Intra-Congress Committee Membership changes are footnoted]

| <b>Member</b>           | <b>Congress(es)</b> |
|-------------------------|---------------------|
| <i>Alabama:</i>         |                     |
| John McKinley           | 23                  |
| David Hubbard           | 26                  |
| Dixon H. Lewis          | 27-28               |
| George S. Houston       | 29-30, 32-33        |
| James F. Dowdell        | 35                  |
| Hilary A Herbert        | 48                  |
| Joseph Wheeler          | 53-55               |
| Oscar W. Underwood      | 56, 59-63           |
| Ronnie G. Flippo        | 98-101              |
| Artur Davis             | 110-111             |
| <i>Arizona:</i>         |                     |
| J.D. Hayworth           | 105-109             |
| <i>Arkansas:</i>        |                     |
| James K. Jones          | 48                  |
| Clifton R. Breckinridge | 49-51, 53           |
| William A. Oldfield     | 64-70               |
| Heartsill Ragon         | 70-73               |
| William J. Driver       | 72                  |
| Claude A. Fuller        | 73-75               |
| Wilbur D. Mills         | 77-94               |
| Jim Guy Tucker, Jr.     | 94                  |
| Beryl Anthony Jr.       | 95                  |
| <i>California:</i>      |                     |
| Joseph McKinna          | 51-52               |

|                        |                     |
|------------------------|---------------------|
| Victor H. Metcalf      | 57-58               |
| James C. Needham       | 58-62               |
| William H. Evans       | 73                  |
| Frank H. Buck          | 74-77               |
| Bertrand W. Gearhart   | 76-80               |
| Cecil R. King          | 78-79, 81-90        |
| James B. Utt           | 83, 86-91           |
| James C. Corman        | 90-96               |
| Jerry L. Pettis        | 91-94               |
| William M. Ketchum     | 94-95               |
| Fortney Pete Stark     | 94-                 |
| John H. Rousselot      | 95-97               |
| Robert T. Matsui       | 97-104 <sup>4</sup> |
| William M. Thomas      | 98-109              |
| Wally Herger           | 103-                |
| Xavier Becerra         | 105-                |
| Mike Thompson          | 109-                |
| Devin Nunes            | 109- <sup>6</sup>   |
| <i>Colorado:</i>       |                     |
| Robert W. Bonyng       | 60                  |
| Charles B. Timberlake  | 66-72               |
| John A. Carroll        | 81                  |
| Donald G. Brotzman     | 92-93               |
| George H. "Hank" Brown | 100-101             |
| Scott McInnis          | 106-108             |
| Bob Beauprez           | 109                 |
| <i>Connecticut:</i>    |                     |
| Jeremiah Watson        | 1                   |
| Uriah Tracy            | 3                   |
| James Hillhouse        | 4                   |
| Nathaniel Smith        | 4-5                 |

|                      |                      |
|----------------------|----------------------|
| Joshua Coit          | 5                    |
| Roger Griswold       | 5-8                  |
| John Davenport       | 8                    |
| Jonathon O. Moseley  | 9, 14, 16            |
| Benjamin Tallmadge   | 10-11                |
| Timothy Pitkin       | 12-13,15             |
| Ralph I. Ingersoll   | 21-22                |
| Samuel D. Hubbard    | 30                   |
| James Phelps         | 45-46                |
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| Henry Latimer        | 3                    |
| John Patten          | 4                    |
| James A. Bayard, Sr. | 5, 7                 |
| Caesar A. Rodney     | 8                    |
| Louis McLane         | 16-19                |
| <i>Florida:</i>      |                      |
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| Karen L. Thurman     | 105-107              |
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| <i>Georgia:</i>       |           |
| James Jackson         | 1         |
| Abraham Baldwin       | 3-5       |
| Benjamin Taliaferro   | 6         |
| John Milledge         | 7         |
| David Meriwether      | 8-9       |
| William W. Bibb       | 12-13     |
| Joel Abbott           | 15        |
| Joel Crawford         | 15-16     |
| Wiley Thompson        | 17-18     |
| George R. Gilmer      | 20        |
| Richard H. Wilde      | 22-23     |
| George W. Owens       | 24-25     |
| Charles E. Haynes     | 25        |
| Mark A. Cooper        | 26        |
| Absalom H. Chappell   | 28        |
| Seaborn Jones         | 29        |
| Robert Toombs         | 30-31     |
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| Howell Cobb           | 34        |
| Martin J. Crawford    | 35-36     |
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| Henry R. Harris       | 45, 49    |
| William H. Felton     | 46        |
| Emory Speer           | 47        |
| James H. Blount       | 48        |
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| William G. Brantley | 61-62        |
| Charles R. Crisp    | 64-72        |
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| Phillip M. Landrum  | 89-94        |
| Ed Jenkins          | 95-102       |
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| John Lewis          | 103-         |
| Mac Collins         | 104-108      |
| John Linder         | 109-111      |
| Tom Price           | 112-         |
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| <i>Illinois:</i>    |              |
| Daniel P. Cook      | 19           |
| John A. McClernand  | 37           |
| John Wentworth      | 39           |
| John A. Logan       | 40           |
| Samuel S. Marshall  | 41           |
| Horatio C. Burchard | 42-45        |
| William R. Morrison | 44, 46-49    |
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| Albert J. Hopkins   | 52-57        |
| Henry S. Boutell    | 58-61        |
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| Ira C. Copley       | 66-67        |
| Carl R. Chindblom   | 68-72        |
| Chester C. Thompson | 74-75        |
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| Harold C. Collier   | 88-93     |
| Dan Rostenkowski    | 88-103    |
| Abner J. Mikva      | 94-96     |
| Philip M. Crane     | 94-108    |
| Marty Russo         | 96-102    |
| Mel Reynolds        | 103       |
| Jerry Weller        | 105-110   |
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| Danny K. Davis      | 111       |
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| Aaron Schock        | 112       |
| <i>Indiana:</i>     |           |
| David Wallace       | 27        |
| Cyrus L. Dunham     | 32        |
| William E. Niblack  | 40, 43    |
| Godlove S. Orth     | 41        |
| Michael C. Kerr     | 42        |
| Thomas M. Browne    | 48-50     |
| William D. Bynum    | 50, 53    |
| Benjamin F. Shively | 52        |
| George W. Steele    | 54-57     |
| James E. Watson     | 58-60     |
| Edgar D. Crumpacker | 60-61     |
| Lincoln Dixon       | 62-65     |
| Harry C. Canfield   | 71-72     |
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| William R. Green      | 63-70         |
| C. William Ramseyer   | 70-71         |
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| Lloyd Thurston        | 75            |
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| Fred Grandy           | 102-103       |
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| William A. Calderhead | 60-61         |
| Victor Murdock        | 63            |
| Guy T. Helvering      | 64-65         |
| Frank Carlson         | 76-79         |
| Martha E. Keys        | 94-95         |
| Lynn Jenkins          | 112           |
| <i>Kentucky:</i>      |               |
| Alexander D. Orr      | 3             |
| Christopher Greenup   | 4             |
| Thomas T. Davis       | 5             |
| John Boyle            | 8             |
| Richard M. Johnson    | 11-12         |
| Thomas Montgomery     | 13            |
| David Trimble         | 15-16         |

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| Nathan Gaither            | 22        |
| John Pope                 | 25        |
| Thomas F. Marshall        | 27        |
| Garrett Davis             | 28        |
| Charles S. Morehead       | 30-31     |
| John C. Breckinridge      | 33        |
| Robert Mallory            | 38        |
| James B. Beck             | 42-43     |
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| John G. Carlisle          | 46-47, 51 |
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| Walter Evans              | 54-55     |
| Ollie M. James            | 62        |
| Augustus O. Stanley       | 63        |
| Frederick M. Vinson       | 72-75     |
| Noble J. Gregory          | 78-85     |
| John C. Watts             | 86-92     |
| Jim Bunning               | 102-105   |
| Ron Lewis                 | 106-110   |
| Geoff Davis               | 110-      |
| <i>Louisiana:</i>         |           |
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| William L. Brent          | 19-20     |
| Walter H. Overton         | 21        |
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| Samuel F. Robertson       | 55-59     |
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| Jim McCrery              | 103-110                   |
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| <i>Maine:</i>            |                           |
| Peleg Sprague            | 19-20                     |
| Francis O.J. Smith       | 24                        |
| George Evans             | 26                        |
| Israel Washburn, Jr.     | 36                        |
| James G. Blaine          | 44                        |
| William P. Frye          | 46                        |
| Thomas B. Reed           | 48-50, 52-53              |
| Nelson Dingley, Jr.      | 51, 54-55                 |
| Daniel J. McGillicuddy   | 64                        |
| <i>Maryland:</i>         |                           |
| William Smith            | 1                         |
| Gabriel Christie         | 3                         |
| William Vans Murray      | 4                         |
| William Hindman          | 4-5                       |
| William Craik            | 5                         |
| Joseph H. Nicholson      | 6-9                       |
| Nicholas R. Moore        | 8                         |
| Roger Nelson             | 9                         |
| John Montgomery          | 10-11                     |
| Alexander McKim          | 13                        |
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| David J. Lewis        | 72-75     |
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| Benjamin L. Cardin    | 101-109   |
| <i>Massachusetts:</i> |           |
| Elbridge Gerry        | 1         |
| Fisher Ames           | 3         |
| Theodore Sedgwick     | 4         |
| Theophilus Bradbury   | 4         |
| Harrison Gray Otis    | 5-6       |
| Samuel Sewall         | 5         |
| Isaac Parker          | 5         |
| Bailey Bartlett       | 6         |
| Nathan Read           | 7         |
| Seth Hastings         | 8         |
| Josiah Quincy         | 9         |
| Ezekial Bacon         | 11-12     |
| Ebenezer Seaver       | 11        |
| Henry Shaw            | 16        |
| Henry W. Dwight       | 19-21     |
| Benjamin Gorham       | 23        |
| Abbott Lawrence       | 24, 26    |
| Richard Fletcher      | 25        |
| George N. Briggs      | 25        |
| Leverett Saltonstall  | 26        |
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| Charles Hudson        | 30        |
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| William A. Russell  | 47-48     |
| Moses T. Stevens    | 52-53     |
| Samuel W. McCall    | 56-62     |
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| John T. Mitchell    | 63        |
| Allen T. Treadway   | 65-78     |
| Peter F. Tague      | 67-68     |
| John W. McCormack   | 72-76     |
| Arthur D. Healey    | 77        |
| Charles L. Gifford  | 79-80     |
| Angier L. Goodwin   | 80, 82-83 |
| James A. Burke      | 87-95     |
| James M. Shannon    | 96-98     |
| Brian J. Donnelly   | 99-102    |
| Richard E. Neal     | 103-      |
| <i>Michigan:</i>    |           |
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| Austin Blair        | 41        |
| Henry Waldron       | 43        |
| Omar D. Conger      | 46        |
| Jay A. Hubbell      | 47        |
| William C. Maybury  | 49        |
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| Joseph W. Fordney      | 60-67     |
| James C. McLaughlin    | 68-72     |
| Roy O. Woodruff        | 73-82     |
| John D. Dingell        | 74-84     |
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| Martha W. Griffiths    | 87-93     |
| Charles E. Chamberlain | 91-93     |
| Richard F. Vander Veen | 93-94     |
| Guy Vander Jagt        | 94-102    |
| William M. Brodhead    | 95-97     |
| Sander M. Levin        | 100-      |
| Dave Camp              | 103-      |
| <i>Minnesota:</i>      |           |
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| Sydney Anderson        | 63        |
| Harold Knutson         | 73-80     |
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| Joseph E. Karth        | 92-94     |
| Bill Frenzel           | 94-101    |
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| <i>Mississippi:</i>    |           |
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| Gustavus A. Finkelburg | 42                  |
| John C. Tarsney        | 53-54               |
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| Dorsey W. Shackelford  | 62-63               |
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| Charles H. Sloan        | 63-65   |
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| <i>New Hampshire:</i> |                       |
| Samuel Livermore      | 1                     |
| Nicholas Gilman       | 3-4                   |
| Abiel Foster          | 5                     |
| Nathaniel A. Haven    | 11                    |
| Henry Hubbard         | 23                    |
| Charles G. Atherton   | 25-27                 |
| Moses Norris, Jr.     | 28-29                 |
| Harry Hibbard         | 31-33                 |
| Judd A. Gregg         | 99-100                |
| <i>New Jersey:</i>    |                       |
| Lambert Cadwalader    | 1                     |
| Elias Boudinot        | 3                     |
| Isaac Smith           | 4                     |
| Thomas Sinnickson     | 5                     |
| James H. Imlay        | 6                     |
| William Coxe, Jr.     | 13                    |
| John L. N. Stratton   | 37                    |
| William Hughes        | 62                    |
| Isaac Bacharach       | 66-74                 |
| Donald H. McLean      | 76-78                 |
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| Henry Helstoski       | 94                    |
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| John Laurance             | 1                |
| John Watts                | 3                |
| Ezekial Gilbert           | 4                |
| James Cochran             | 5                |
| Hezekiah L. Hosmer        | 5                |
| Jonas Platt               | 6                |
| Killian K. Van Rensselaer | 7                |
| Joshua Sands              | 8                |
| Erastus Root              | 11               |
| John W. Taylor            | 13               |
| Jonathon Fisk             | 13               |
| Thomas J. Oakley          | 13               |
| James W. Wilkin           | 14               |
| James Tallmadge, Jr.      | 15               |
| Albert H. Tracy           | 16               |
| Nathaniel Pitcher         | 17               |
| Churchill C. Cambreleng   | 17-18, 23-25     |
| Dudley Marvin             | 19               |
| Gulian C. Verplanck       | 20-22            |
| Aaron Vanderpoel          | 26               |
| Millard Filmore           | 27               |
| Daniel D. Barnard         | 28               |
| David L. Seymour          | 28               |
| George O. Rathbun         | 28               |
| Orville Hungerford        | 29               |
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| De Witt C. Littlejohn | 38           |
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| Roscoe Conkling       | 39           |
| Charles H. Winfield   | 39           |
| John A. Griswold      | 40           |
| Dennis McCarthy       | 41           |
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| Frank Hiscock         | 48-49        |
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| George W. Fairchild   | 64-65        |
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| Jacob H. Gilbert        | 90-91                      |
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| Charles B. Rangel       | 94-                        |
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| Brian Higgins           | 111                        |
| Christopher Lee         | 112 <sup>11</sup>          |
| Tom Reed                | 112 <sup>12</sup>          |
| <i>North Carolina:</i>  |                            |
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| Thomas Blount           | 4-5                        |
| Robert Williams         | 5                          |
| David Stone             | 6                          |
| James Holland           | 7                          |
| Willis Alston           | 10-11, 13                  |
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| Edward W. Pou          | 60-61     |
| Claude Kitchin         | 62-67     |
| Robert L. Doughton     | 69-82     |
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| <i>Ohio:</i>           |           |
| William Creighton, Jr. | 13        |
| Thomas R. Ross         | 16        |
| Thomas Corwin          | 23-24     |
| Thomas L. Hamer        | 25        |
| Taylor Webster         | 25        |
| Samson Mason           | 26-27     |
| John B. Weller         | 28        |
| Samuel F. Vinton       | 29-31     |
| Lewis B. Campbell      | 34-35     |
| John Sherman           | 36        |
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| Alfred G. Allen       | 65                   |
| George White          | 68-71                |
| Charles C. Kearns     | 73                   |
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| Thomas A. Jenkins     | 74-75                |
| Arthur P. Lamneck     | 81                   |
| Stephen M. Young      | 86-92                |
| Jackson E. Betts      | 93-94                |
| Donald D. Clancy      | 89-96                |
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| Stephanie Tubbs Jones | 110-                 |
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| James V. McClintic    | 74-78                |
| Wesley E. Disney      | 94-99                |
| James R. Jones        | 103                  |
| Bill K. Brewster      | 105-107              |
| Wes Watkins           |                      |
| <i>Oregon:</i>        | 61                   |
| William R. Ellis      | 65-72                |

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| Albert C. Ullman     | 103        |
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| <i>Pennsylvania:</i> | 1, 3       |
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| Albert Gallatin      | 6          |
| Henry Woods          | 6-7, 10-12 |
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| Joseph Clay          | 11         |
| John Rea             | 12-13      |
| Jonathon Roberts     | 13-14, 18  |
| Samuel D. Ingham     | 15, 25     |
| John Sergeant        | 17         |
| John Tod             | 21-22      |
| John Gilmore         | 23         |
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| Richard Biddle       | 24, 27-29  |
| Joseph R. Ingersoll  | 30         |
| James Pollock        | 31         |
| Moses Hampton        | 32, 35     |
| J. Glancy Jones      | 33         |
| John Robbins         | 34         |
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| Robert Goodloe Harper    | 6     |
| Abraham Nott             | 9     |
| David R. Williams        | 12    |
| Langdon Cheves           | 13    |
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| Thomas R. Mitchell       | 18-22 |
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| Harold E. Ford        | 94-104       |
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| John S. Tanner        | 105-111      |
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| Lloyd Doggett      | 104-              |
| Kevin Brady        | 107-              |
| Max Sandlin        | 108               |
| Kenny Marchant     | 112 <sup>13</sup> |
| <i>Utah:</i>       |                   |
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| <i>Vermont:</i>    |                   |
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| Lewis R. Morris    | 5                 |
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| Justin S. Morrill  | 35-39             |
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| James Madison      | 1, 3-4            |
| William B. Giles   | 5                 |
| Richard Brent      | 5                 |
| Walter Jones       | 5                 |
| Leven Powell       | 6                 |
| John Nicholas      | 6                 |
| John Randolph      | 7-9, 20           |
| James M. Garnett   | 9                 |
| John W. Eppes      | 10-11, 13         |
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| Andrew Stevenson    | 17-19     |
| Alexander Smyth     | 20-21     |
| Philip P. Barbour   | 21        |
| Mark Alexander      | 21-22     |
| George Loyall       | 23-24     |
| John W. Jones       | 25-27     |
| John M. Botts       | 27        |
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| Thomas H. Bayly     | 28, 31    |
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| James McDowell      | 30        |
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| Claude A. Swanson   | 55-58     |
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| Eric Cantor         | 108-111   |
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| Samuel B. Hill      | 71-74     |
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| Otis H. Holmes      | 80-85     |
| Rodney D. Chandler  | 100-102   |

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| <i>West Virginia:</i>      |           |
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| William A. Steiger         | 94-95     |
| Jim Moody                  | 100-102   |
| Gerald D. Kleczka          | 103-108   |
| Paul Ryan                  | 107-      |
| Ron Kind                   | 110-      |

1. Appointed January 25, 1996.
2. Appointed January 25, 1996.
3. Appointed July 10, 1995.
4. Reelected to the 109<sup>th</sup> Congress; died January 1, 2005.
5. Resigned April 29, 2005.
6. Appointed May 5, 2005.
7. Pursuant to H.Res. 872, removed June 16, 2006.
8. Resigned September 29, 2006.
9. Died, August 20, 2008.
10. Appointed to Senate April 27, 2011
11. Resigned February, 9 2011
12. Appointed June 13, 2011.
13. Appointed March 15, 2011

## 2. COMMITTEE MEMBERSHIP, 112<sup>TH</sup> CONGRESS

(January 5, 2011 – May 31, 2012)

### COMMITTEE ON WAYS AND MEANS

ONE HUNDRED TWELFTH CONGRESS

DAVE CAMP, Michigan, *Chairman*

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|--|--------------------------------|
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| SAM JOHNSON, Texas                     | CHARLES B. RANGEL, New York    |
| KEVIN BRADY, Texas                     | FORTNEY PETE STARK, California |
| PAUL RYAN, Wisconsin                   | JIM McDERMOTT, Washington      |
| DEVIN NUNES, California                | JOHN LEWIS, Georgia            |
| PAT TIBERI, Ohio                       | RICHARD NEAL, Massachusetts    |
| GEOFF DAVIS, Kentucky                  | XAVIER BECERRA, California     |
| DAVE REICHERT, Washington              | LLOYD DOGGETT, Texas           |
| CHARLES BOUSTANY, Louisiana            | MIKE THOMPSON, California      |
| DEAN HELLER, Nevada <sup>1</sup>       | JOHN B. LARSON, Connecticut    |
| PETER ROSKAM, Illinois                 | EARL BLUMENAUER, Oregon        |
| JIM GERLACH, Pennsylvania              | RON KIND, Wisconsin            |
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| ADRIAN SMITH, Nebraska                 | JOSEPH CROWLEY, New York       |
| AARON SCHOCK, Illinois                 |                                |
| CHRISTOPHER LEE, New York <sup>2</sup> |                                |
| LYNN JENKINS, Kansas                   |                                |
| ERIK PAULSEN, Minnesota                |                                |
| KENNY MARCHANT, Texas <sup>3</sup>     |                                |
| RICK BERG, North Dakota                |                                |
| DIANE BLACK, Tennessee                 |                                |
| TOM REED, New York <sup>4</sup>        |                                |

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<sup>1</sup> Resigned May 9, 2011.

<sup>2</sup> Resigned February 9, 2011.

<sup>3</sup> Appointed March 15, 2011, and seniority pursuant to H.Res. 168.

<sup>4</sup> Appointed June 13, 2011.